Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

In the matter of:	)	
	)	
In re: Delete Delete Delete	)	GN Docket No. 25-133
	)	
Amendments of Parts 1, 73, 74 and 76 of the Commission's Rules to Update Rules Applicable to Broadcast Stations	)	MB Docket No. 24-626
	)	
Priority Application Review for Broadcast Stations that Provide Local Journalism or Other Local Originated Programming	)	MB Docket No. 24-14
	)	
Creation of a New FM Broadcast Service Class A10	)	MB Docket No. 24-183
	)	
Amendment of Part 73 of the Commission's Rules to Introduce New Local Noncommercial Educational Broadcast Stations Outside of Major Markets and Urbanized Areas	)	RM-11846
	)	
Amendment of Parts 73 and 74 of the Commission's Rules to Create A Second Class of Service for Low Power FM Broadcast Stations	)	RM-11909
	)	
Amendment of Parts 73 and 74 of the Commission's Rules to Address Future FM Translator Filing Windows	)	RM-11952

TABLE OF CONTENTS

Heading			Paragraph #
I.	INTRODUCTION		1
	A.	The importance of regulations, in moderation	2
	B.	The constituency of REC Networks	5
	C.	The objectives of REC Networks	6
	D.	Petitions for Rulemaking filed by REC Networks	13
	E.	Issues presented by REC in this proceeding	17
II.	LOW POWER FM RADIO SERVICE		19
	A.	LPFM classes of service	25
	B.	Minimum distance between LPFM and foreign FM allotments	42
	C.	Interference protection to FM translator and other LPFM stations	47
	D.	Interference protection to full-service FM stations	62
	E.	LPFM Antennas – Proof of Performance	67

F. Licensing requirements and service……... 78
G. Cross-ownership of LPTV stations by Tribal entities…… 102
H. Modernizing the definition of of Local Program Origination……... 110
I. Operating agreements…… 115
J. Commonly owned FM translator and booster stations…….. 123
III. NONCOMMERCIAL EDUCATIONAL FM BROADCAST STATIONS…… 139
A. De-reservation of NCE FM allotments……. 140
B. Class D noncommercial educational stations…… 150
C. New local NCE FM stations in rural areas adjacent to urban areas…….. 154
D. Point system factors – third tie breaker……. 156
E. Disqualified applicants in MX Groups…….. 160
IV. FM TRANSLATOR AND BOOSTER STATIONS
A. FM Translator reform promotes fairness in future filing windows……... 164
B. Determination of operating power for non-fill in FM translator stations…….. 168
C. FM translator protection of LPFM stations……... 174
D. Independent program origination…….. 178
V. MORE THAN ONE BROADCAST SERVICE
A. Reserved band protections to TV Channel 6 broadcast stations……... 184
B. Modification for channel change in the secondary services……. 189
C. Redefining “interference” on second and third-adjacent channels……... 192
E. Modernizing the handling of simultaneously filed modification applications…. 198
F. Minor modification of facility location for FM translators and LPFM…… 205
G. Secondary grants……... 211
VI. INTERNATIONAL BROADCAST STATIONS
A. Reaching domestic audiences…… 214
B. Minimum operating power…… 218
C. Nature of service; commercial or sponsored programs……. 221
VII. AMATEUR RADIO SERVICE
A. General policy…… 223
B. Formal recognition of HAREC…….. 228
VIII. HARMONIZATION OF SHORT-RANGE DEVICES IN THE BROADCAST BANDS. 231
XI. CONCLUSION……... 234
APPENDIX A Proposed rule text
APPENIDX B Description of “Remove and Recompare” for determining tentative selecte

COMMENTS OF REC NETWORKS

I. INTRODUCTION

1. REC Networks (“REC”) is a leading advocate that addresses various Commission regulated services is making the following comments in the above captioned proceeding.

A. The importance of regulations, in moderation

2. Regulations exist for multiple reasons. First, they are intended to specifically implement various legislation that is passed by Congress. Congress depends on independent agencies, such as the

Commission to be the "experts" in the field and through a rulemaking process, the "expert agency" proposes its interpretation of the statute into a practical application.

3. Second, regulations give the agency to keep up with changes in the industry by adapting to those changes to introduce innovative new services and to provide more flexibility to its regulated services without having to wait for Congress to specifically implement the changes. These types of regulations must be done within the guard rails of statute, such as the Communications Act.

4. While this is a proceeding to "delete" regulations, while some deletion can be done, a wholesale deletion of regulations for this agency is not really possible. Instead, we need to identify specific issues where there can be improvement, are no longer necessary or contain obsolete language. REC's review of these rules take into consideration technological changes, including those within the Commission's systems that the public use. We are aware that there will bs some who will be filing comments to make changes which cannot be done through regulation due to statute. We must also take into consideration, international issues such as the ITU Radio Regulations and the international agreements with Canada and Mexico.

B. The constituency of REC Networks

5. REC's focus is mainly on the ability for as many citizens as possible to be able to fairly access spectrum, which many see as the domain of the largest corporations. REC's constituents include small broadcast stations in both the commercial and noncommercial educational sectors, especially the Low Power FM (LPFM) broadcast service.[1] This ability to use spectrum for broadcasting includes the use of short range devices, authorized through Part 15 of the Commission's Rules. Our constituency also includes those who use the various personal radio services such as the Amateur Radio Service, the Citizens Band (CB) Radio Service, the General Mobile Radio Service (GMRS), the Family Radio Service (FRS) and the Multi-use Radio Service (MURS). REC's constituency also includes those who use the internet to broadcast (stream) audio content to a general audience.

C. The objectives of REC Networks

6. When REC evaluates and recommends regulatory change to the Commission, we use our baseline non-partisan objectives. These objectives are as follows:

7. *Citizen's access to spectrum.* REC's longest running objective is assuring that spectrum is available and opportunities exist for private citizens as well as small organizations (non-profit and commercial) in the broadcast and non-broadcast disciplines.

8. *Keeping radio relevant.* In this modern culture of evolving competing technologies, radio must still have a place in the minds of listeners and on the dashboards of cars. Radio can remain relevant through compelling content and technology as well as assuring that radio remains a unique place for content, tailored for the community.

9. *More choices and more voices.* Radio is still the greatest "app" ever made. You only need a radio receiver and no broadband subscription is needed. In order for radio to remain successful and relevant, there needs to be a wider choice of programming available from a wider array of program providers.

[1] REC considers a "small broadcast station" as an entity that has aggregated revenues of less than $100,000 annually from donations, underwriting, advertising and from the offering of ancillary services.

10. *Improving the rural quality of life.* Being rural ourselves, one of REC's objectives is to promote spectrum and other initiatives that will help improve services in rural areas thus improving the quality of life.

11. *Promoting emergency alerting at the small station level.* REC is a supporter of emergency alerting and radio's role in it. The Emergency Alert System ("EAS") must remain resilient and reliable. Regulatory decisions must take into consideration, the many independently owned small stations that may struggle financially to remain compliant.

12. *Digital Equity.* Digital Equity in the eyes of REC's objectives is to assure that many different types of groups are represented in radio, not just on the air, but also in the boardroom; and is reflected in the programming on the radio as well as encouraging diverse participation in other non-broadcast spectrum services. Our perception of equity is to assure that majority and minority populations are treated equally and have the same opportunities.

D. Petitions for Rulemaking filed by REC Networks

13. REC has filed several *Petitions for Rulemaking* before the Commission. In the past, we have seen some of the items presented come to fruition. With that, REC would like to call attention to three such petitions, which have all collected supportive comments and should be considered in future rulemaking. While these petitions may "add" regulations, they are very important to improve the rural quality of life, expand broadcasting opportunities, update regulations based on changes in the industry and to promote fairness. These petitions include:

14. *RM-11846*. This initiative would utilize existing technical policies applied in other broadcast services in an effort to introduce local lower-powered noncommercial educational FM service to non-urbanized areas that are otherwise excluded from new service due to adjacent urbanized areas.[2]

15. *RM-11909*. This initiative would create a second class of LPFM broadcast stations increasing the service contour from 5.6 to 7.1 kilometers. Such a change would allow LPFM stations, mainly in rural areas, to better reflect their hyperlocal area as well as to improve radio service to those located closer to the station.[3]

16. *RM-11952*. This initiative would codify and modify the policies put in place for new FM translator stations[4] following the enactment of the Local Community Radio Act of 2010[5]. This initiative also updates the comparative selection process for mutually exclusive FM translator applications for noncommercial educational broadcast stations.[6]

E. Issues presented by REC in this proceeding

17. REC has reviewed the rule sections that involve the services that are within our constituency. We have looked at various REC position statements, input from our constituents, results of past REC constituent surveys and good common sense. Each item for deletion, change or addition will be presented with three parts. First, we will explain the issue and relevant events leading to the issue. Second, we will make a proposal for a deletion, change, addition or a combination of those to regulations in order to address the matter. Finally, we will specifically address one of more of the policy factors from the *Public*

---

[2] https://www.fcc.gov/ecfs/document/10708820526920/1
[3] https://www.fcc.gov/ecfs/search/search-filings/filing/105281442608707
[4] *Creation of a Low Power Radio Service,* Fourth Report and Order, 27 FCC Rcd. 3364 (2012).
[5] Pub. L. No. 111-371, 124 Stat. 4072 (2011) ("LCRA").
[6] https://www.fcc.gov/ecfs/document/10829146613578/1

Notice, which include: experience gained; marketplace and technical changes; barrier to entry; broader regulatory context as well as changes in regulatory feedback. In addition, we will also review other relevant considerations, which may be based on applicant issues, such as abuse of process; prior staff actions, such as oversights during the amendment of regulations and other short-sighted past decisions as well as other methods to promote government efficiency, such as repetitive or unnecessary language in regulations. Some of the proposals may not have this additional information as preparation time has expired despite REC's attempt to extend the period of time due to the annual convention of the National Association of Broadcasters in Las Vegas, Nevada. We will also present our actual proposed rules in an appendix, something REC has always been known for in these presentations.

18. It is REC's position that you cannot "completely deregulate" a Commission regulated service, but instead, the agency must maintain regulations that, while more minimalist, still guide the agency and the underlying service to be the most efficient for both the agency and for the American people. This means that we can't just **delete** everything. Sometimes, we need to change things, and in some cases, we may have to add regulations. REC understands the President's intentions in the underlying executive order and while the regulations within the Commission are already fairly "fit and trim" coming into this proceeding as compared to other federal agencies, which are bigger targets of the current administration, we can see some room for improvement at the FCC, which we will present, as set forth.

II. LOW POWER FM RADIO SERVICE

19. REC is probably best known for our advocacy in the Low Power FM (LPFM) radio service. Our history with this service goes back to 1998, prior to the establishment of the service. Over the years, REC has interacted with and continues to interact with hundreds of LPFM stations across the country. REC provides some of the most comprehensive data and instructional materials, which the latter is intended to assure station compliance and to make them good neighbors in our FM broadcast ecosystem. The reputation of REC's founder Michelle ("Michi") Bradley is well known to Commission staff and others as a major industry stakeholder and a noted expert on the subject.

20. The LPFM service was created in 2000 in the wake of the Telecommunications Act of 1996, which in part, relaxed the national broadcast station ownership regulations allowing for the consolidation of large broadcast owners that we have today. LPFM was created out a concern that the national owners would consolidate operations, remove local voices and present "national playlists". Unfortunately, most of what we feared back in the late 1990s has come to fruition. While there are some great local owners of commercial stations throughout our nation, full-service radio, both commercial and noncommercial has lost its local flair through the closure of studios and newsrooms, the importing of nonlocal air talent and the continuing expansion of 24-hour national networks within the NCE sector.

21. The LPFM regulations, which require local ownership, local accountability and promoting ownership diversity[7] are the cornerstones to what keeps the LPFM service uniquely local. It is in the public interest to maintain that localism.

22. However, there are regulations in LPFM that were founded based on the fears of larger broadcast interests who saw the new LPFM stations as a threat. It was so bad at one time where the entities representing large broadcast interests were providing misleading information to Congress in regards to interference. We also must recognize that not all communities are created equal and while the original intention of the LPFM service was to serve deep urban inner-city areas, LPFM stations ended up being

[7] In this context, "ownership diversity" refers to the number of different entities that own broadcast stations in a particular area and should not be confused with Diversity, Equity and Inclusion (DEI) efforts.

mainly a suburban and rural service. With that said, many rural LPFM stations are burdened because they are unable to reach the full areas which they would consider as “hyperlocal”. In other words, country miles can be longer.

23. We further note that in addition to the Communications Act, the LPFM service also has another unique guard rail, the *Local Community Radio Act of 2010*. This statute places various limitations in place on LPFM stations, as well as FM translator and FM booster stations. Any changes that we propose as well as any other changes or deregulation activity proposed must remain consistent with the LCRA.

24. In this section, REC is proposing various regulatory changes which include a mix of new regulations, changed regulations and of course, **deleted** regulations. REC views regulations to be necessary in order to properly implement additional statutes, such as the LCRA. Many of our proposed changes were peer reviewed through constituent surveys. We note that some of our proposals here, such as LP-250, have previously been proposed, put on public notice and received comments. REC plans to file another *Petition for Rulemaking* in the future to address some of the proposed changes we discuss in the *Delete, Delete, Delete* proceeding.

A. LPFM classes of service

Change Type	Rule section(s) affected):
Modify	73.807, 73.811, 73.825, 73.853, 73.870, 73.871

1. Overview

25. REC’s largest regulatory initiative is to address one of the most popular requests we receive at the network. This is the ability for LPFM stations, many of which face issues with local building penetration and to better reach their community’s full audience in rural areas is the ability for LPFM stations, which meet certain technical criteria and following the statutory requirements of LCRA, to be able to increase from a facility of 100 watts at 30 meters height above average terrain (“HAAT”) to 250 watts at 30 meters HAAT.

26. While the concept for a 250-watt LPFM service (“LP250”) had been considered in the past, that consideration failed to take into consideration that it was competing against efforts to maintain the former 10-watt LPFM class of service, which was removed in 2013 with no authorizations ever granted. Subsequently, a later version of LP250, this time proposed by REC, was dismissed by the agency as being “too complex” and outside the scope of the “simple” nature of LPFM. While REC disagrees with the concept that LPFM must remain "simple" as evidenced by a large number of applications handled by professionals with broadcast engineering and regulatory knowledge, we did resubmit a plan, called “Simple 250”, which was assigned RM-11909. For full details on this proposal, see the *Petition for Rulemaking* filed by REC Networks in RM-11909.

27. Simple 250 addresses all of the previous concerns by the Commission to keep LPFM “simple” by providing a way for LPFM stations to simply apply for an upgrade if they meet specific distance separation requirements, adjusted to respect the 20 kilometer “buffer zone”, which has been previously interpreted as needing to be respected, pursuant to the LCRA.

28. Throughout the 12 years that a concept of a 250-watt LPFM service has been discussed, REC has addressed the concerns of larger broadcasters and has clearly shown that upgraded LP250 stations will not cause substantial interference to existing broadcast stations. In a study conducted by REC Networks on July 19, 2024, which does not take into consideration LPFM construction permits granted in the 2023 Third Generation LPFM Filing Window, has demonstrated that approximately 77.5% of existing

LPFM stations would be able to upgrade to LP250. This includes nearly 93 percent of LPFM stations in rural areas with 60 dBu service contours of less than 25,000 persons.

29. We further note that over half of all LPFM stations are operated by faith-based organizations. Of those faith-based LPFM stations, 81.6 percent of those stations could be eligible for upgrade to LP250.[8] Only stations operated by public sector entities for public safety purposes have a higher percentage of 88.2 percent based on one-tenth of the stations which the faith-based segment includes.[9]

30. While not in the original RM-11909 proposal and as a result of feedback from those in the full-service broadcast community, we had developed some additional potential requirements in order for LPFM stations to demonstrate a level of merit, in addition to the technical requirements, in order to be eligible for the LP250 service.

31. The merit guidelines were developed by REC and known as the "PACE" program.[10] PACE has four primary elements: (P) Participation; (A) Availability; (C) Compliance; and (E) Experience. In order to meet REC's certification requirements under PACE, the station must meet all four PACE metrics. PACE works on a four-year rolling calendar ("four rolling years"), which looks at all time that the station has been licensed and was not silent. All PACE metrics, other than Availability is based on this four-year rolling calendar. The details of each PACE criterion is as follows:

32. *Participation* – While LPFM stations do not have the specific participation requirements of full-service stations such as maintaining a public inspection file or filing ownership reports, LPFM stations are required to fully participate in the National Periodic Test ("NPT") of the Emergency Alert System ("EAS").[11] This involves the filing of three different forms at specified times before and after the NPT. A station would meet this PACE criterion if they can certify that within the past four rolling years where the full NPT has been performed, that the station has timely filed Form One, Form Two and Form Three into the Commission's EAS Test Reporting System ("ETRS"). For the purposes of date calculation, the reference date for each NPT will be the date in which Form Three was due for filing.

33. *Availability* – In order for an LPFM station to meet the public interest, it must be on the air and providing programming. A station that is silent only takes up needed spectrum and is not in the public interest. A station would meet this PACE criterion if they can certify that in the past four calendar years, that in no more than 365 days the station did not the minimum operating schedule requirements of §73.850 for each day, including silent time that was not reported to the Commission. The calculation of the days not in compliance is cumulative and can be non-consecutive due to multiple events of silence.

34. *Compliance* – For any radio service, compliance with the rules is paramount. While REC can understand the inexperience of broadcasters in some cases, we cannot tolerate intentional violations of the Commission's Rules, the Communications Act and other applicable laws. A station would meet this PACE criterion if they can certify within the past four years the LPFM station has not received of the following from the Commission: (1) *Notice of Apparent Liability for Forfeiture ("NALF")*; (2) *Forfeiture Notice*; (3) *Consent Decree* and *Order*; (4) *Notice of Violation ("NOV")*; or any subsequent notice where the original violation is sustained. If such a notice is subsequently rescinded where the alleged action was

[8] https://recnet.net/fcc/LP250Summary_7-19-24.pdf
[9] *See also*, REC Networks, Comments, Simple 250 Summary March 2024 Update, MB Docket 24-14 (Mar. 11, 2024).
[10] https://recnet.com/pace
[11] 47 CFR §11.61(a)(3).

not a violation (such as through reconsideration or based on the response to a *NALF* or *NOV*), the action need to be considered. Any violation that was downgraded to an *Admonishment* must be considered.

35. *Experience* – An organization that has had tenure in LPFM station operations is most likely to be best experienced on the operation of the station as well as underlying Commission regulations and policies. A station would meet this PACE criterion if they can certify that the station has engaged in licensed, on-air operation under the same entity for the past four rolling years.

36. REC embraces the additional hurdle of the PACE criteria for the purposes of determining eligibility to request and maintain LP250 facilities. Stations that meet the PACE criteria are more likely to operate compliant facilities and best address the many issues that have been raised publicly on past records from the full-service broadcast community.

2. Proposal

37. It is REC's position that it is in the public interest and good regulatory practice to enhance local, resilient broadcast services to rural areas and to improve the signal quality of established local broadcasters, while preserving the same quality of service provided by other broadcast stations, to move ahead with a *Notice of Proposed Rulemaking* ("NPRM") to establish the LP250 service as proposed in RM-11909 with the additional provisions regarding the PACE criteria mentioned in these *Comments*.

38. In addition to the proposed changes in RM-11909, amend §73.853 to incorporate the PACE criteria presented above as an additional administrative procedure required to qualify for the higher class of service.

3. Relevant policy factors

39. *Experience gained* – The LPFM service was created in 2000. The first LPFM applications were granted on April 12, 2001.[12] The first LPFM stations went on the air as early as January 18, 2002.[13] We are now at over 23 years since that first LPFM station went on the air. The LPFM service has clearly demonstrated that during this time, that the service has matured. The Commission, the LPFM licensees and the industry in general has proven that LPFM stations, operating as authorized, have maintained the overall integrity of the FM broadband band from an interference standpoint. Using that experience and based on similar theories that have already been proven in the 100-watt "LP100" service class, REC has applied those same standards, scaled up with an increased service contour size of 7.1 kilometers ("LP250") and has shown that stations operating at the higher power levels will continue to maintain the same spectrum integrity, especially considering that even at the LP250 class of service, LPFM facilities will remain inferior in size to over 95 percent of all licensed FM translator facilities.

40. Experience has also been gained through the various proposals and rulemaking proceedings. The Commission has already recognized that LP100 stations have small service areas and have been constrained in their ability to gain listeners.[14] Further, the Commission had already determined that the LCRA does not contain any language limiting the power levels at which LPFM stations could be licensed and found unpersuasive past reliance on legislative history as raised by opponents to the new class of service.[15] In addition, the records in RM-11749, RM-11810, RM-11909 and MB Docket 19-193 clearly show comments from many experienced LPFM station licensees who have experienced both issues with

---

[12] *See M & D Christian Educational Media, Inc.*, File No. BNPL-20000531ACT (*granted*, Apr. 12, 2001), *et al*.
[13] *See College Wesleyan Church*, File No. BLL-20020118ABJ (*filed*, Jan. 18, 2002; *granted*, Feb. 11, 2002).
[14] *See LPFM Report*, 27 FCC Rcd. 64.
[15] *See Sixth Order* at 15479.

reception issues within their current LP100 service areas as well as the need to reach rural portions of their communities which are beyond the proverbial 3.5 mile service area but still have a nexus on the area where the LPFM station is located. To those stations, this extra mile of service area is still considered "hyperlocal". We also note that it was the Commission's desire that in order for an LP250 service to be regulatory successful, we would have to respect the 20 kilometer "buffer zone" despite that not being proposed when the Commission originally proposed LP250 in the *Fourth NPRM*.[16] In response, REC proposed just that in RM-11909.

41. *Marketplace and technical changes* – Since the first LPFM stations went on the air 23 years ago, we have had a long time to evaluate the "marketplace" for LPFM stations. We have also seen a lot of evolution in "non-radio" services, such as streaming platforms. Thus further elevates the need to keep radio relevant in the minds of the listener and the way to do that is to provide "more choices and more voices", which extends the utility of FM radio. With the decline of younger audiences understanding radio, we must make every effort we can to assure that *all* broadcast stations, full-service and low-power, are able to achieve listenership. Unlike these "non-radio" services, traditional FM radio remains available without a subscription, very low hardware costs and with the utmost privacy compared to internet based audio services. This continues to make radio the greatest "app" in the marketplace. If younger listeners discover or re-discover radio through an LPFM station, they are more likely to stick around and actually turn the knob or push the button to see what else is out there. Expanded LPFM service is not just a win-win for LPFM, but it is also a win-win for full-service broadcasting through the new listeners that will be lured back in as a result of the presence of an LPFM station carrying unique local programming of interest to younger listeners.

B. Minimum distance between LPFM and foreign FM allotments

Change Type	Rule section(s) affected):
DELETE	73.807(g)
Modify	73.807(g)

1. Overview and proposals.

42. Any United States use of the FM broadcast band within 320 kilometers of Canada or Mexico are subject to the working agreements that the United States has with these nations.[17] For "low power FM" operations, which includes not just LPFM stations, but also FM translator and FM booster stations, these details can be found in Section 4 of the Canada Agreement and in Annex 1 of the Mexico Agreement.

43. *Intermediate frequency (IF) channels.* Currently, §73.807(g) requires that LPFM stations are required to afford protections to foreign allotments on intermediate frequencies.[18] We do note that upon reviewing both the Canada Agreement and the Mexico Agreement, there is no indication that low power

[16] *See Creation of a Low Power Radio Service,* Fourth Notice of Proposed Rulemaking, 27 FCC Rcd. 3315 (2012) ("*Fourth NPRM*") at 3334-3335.

[17] *See Working Agreement in the Allotment and Assignment of FM Broadcasting Channels under the Agreement between the Government of Canada and the Government of the United States of America Relating to the FM Broadcasting Service* (Feb. 25, 1991, as amended Jul. 9, 1997) ("Canada Agreement") ; *see also Agreement Between The Government of the United States of America and the Government of the United Mexican States Relating to the FM Broadcasting Service in the Band 88-108 MHz* (Aug. 11, 1992) ("Mexico Agreement").

[18] *See* 47 CFR §73.807(g)(1) for Canada and 47 CFR §73.807(g)(2) for Mexico. "Intermediate Frequency" or "IF" refers to an FM broadcast channel that is 53 or 54 channels (10.6 or 10.8 MHz) added or removed from the subject channel (frequency).

FM stations (in the international context) are required to provide any specific protections to IF channels. In a past consultation with Staff, they have confirmed that there is no specific international agreement relating to protection of IF channels from low power FM stations (in the international context) and they would entertain an application that had such short spacing. Even though these required protections are codified in §73.807(g), the Commission's own public LPFM Channel Search tool, which was used by many applicants during the 2023 LPFM Filing Window did not protect the IF channels of any international allotment. Therefore, in the interest of deleting unnecessary regulations, REC is proposing that in §73.807(g), subparagraphs (1) and (2), the columns for the IF channel protection requirements in respect to both Canada and Mexico be **deleted**.

44. *Minimum distance separation with Canadian allotments.* The current Canada Agreement does not afford protection for Canadian allotments over United States territory.[19] This is not the same for Mexico. For FM translators, it is possible to engineer a facility where the interfering contour does overlap the Canadian allotment as long as all overlap takes place within the territory of the United States. It is REC's position that to help improve LPFM service in the Canadian border area, including to open new options in the event of interference, we are proposing that a new subparagraph be added to §73.807(g), which would state: LP100 (and LP250) stations that do not meet the minimum distance separation requirements of §73.807(g) [§§73.807(g)(1) and (g)(2) with the LP250 proposal added] may wave these distance separation requirements upon a technical showing that the appropriate interfering contour does not overlap any land area in Canada -- Co-channel: 34 dBu, First-adjacent channel: 48 dBu; Second-adjacent channel: 74 dBu; and Third-adjacent channel: 94 dBu.[20] No similar change is proposed in respect to Mexico due to differences in the international agreements.

2. Relevant policy factors

45. *Barrier to entry* – The mere presence of these distance separation requirements, which have been determined to not be actually reflective of the underlying international agreements had resulted in some applicants in border areas from being discouraged to file as they figured they could not meet the distance requirements. This had impacted all three LPFM filing windows. While the Audio Division staff, in informal, non-binding communications with REC had acknowledged that they would review applications that did not meet the current §73.807 foreign station protection requirements knowing that the rules did not reflect the international agreements, it was too late for those potential applicants who used third party tools such as those at REC, which strictly followed the §73.807 regulations at the time to advise that channels were not available. In the 2023 filing window, we did see applicants who did not meet the §73.807 minimum distance spacing towards foreign allotments but still within the provisions of the international agreements get their construction permit applications granted.[21] Meanwhile, others sat out the opportunity, because they were working under the letter of the regulations.[22]

---

[19] Canada Agreement at §5.2.2.4.

[20] Normally, for Canadian Class C allotments, these field strengths are 38, 52, 78 and 98 dBu respectively. (Canada Agreement at §5.2.2.3) This is a smaller area as compared the equivalents for the other service classes. In the interest of keeping LPFM simpler, we will propose the larger contour protection requirements for all Canadian service classes.

[21] *See Anacortes Music Project*, File No. 0000232555 (*granted* May 1, 2024) (Second adjacent channel short-spaced to Canadian allotments); *see also Stily Valley Church*, File No. 0000233070 (*granted* Feb. 28, 2024) (Co-channel and IF channel short-spaced to Canadian allotments); *see also La Jolla Community Radio Service*, File No. 0000233047 (*granted* Jun. 21, 2024) (Co channel short-spaced to a Mexican allotment); *see also Open Door Baptist Church*, File No. 0000232346 (*granted* Apr. 4, 2024) (IF channel short-spaced to Mexican allotments).

[22] We note that there were many missteps where the actions of the Audio Division in the 2023 LPFM Filing Window did not conform with expectations as outlined in regulations. Many of the items which the Division deviated from

46. *Other policy factors* – It is REC's position that the current distance separation requirements to foreign allotments in §73.807 were done out of an abundance of simplicity. As we will also state in other items in this proceeding, LPFM has become mature. The need for the "simplicity" that has been enforced since day one is no longer necessary. A significant number of LPFM engineering applications are handled by professionals, such as those who have access to the appropriate tools to conduct contour studies and more importantly, who have had experience in applications for FM translators in both border areas. This is one of those issues where an overabundance of unnecessary simplicity was applied. While we understand some needs for simplicity, the community that supports LPFM stations have been well-underestimated for decades, and this needs to change at the agency.

C. Interference protection to FM translator and other LPFM stations

Change Type	Rule section(s) affected):
Add	(New) 73.815

1. Overview

47. LPFM being a secondary service is subject to what we call "soft displacements" and "hard displacements". A "hard displacement" is a situation where a full-service facility makes a subsequent modification or a new construction permit is filed and it is done so in a manner that would result in prohibited overlap of the LPFM's interfering contour with the full-service station's 70 dBu contour or otherwise in the community of license, in the case of NCE FM stations in the reserved band.[23] In these cases, the primary station can make a technical showing and demand that the LPFM station cease operation due to interference.[24]

48. In 2018, REC filed a *Petition for Rulemaking* which called on the Commission to reinterpret statute, specifically, the LCRA and proposed rule changes that fully reflected the letter of the law. This *Petition for Rulemaking* was assigned RM-11810 by the Secretary, went to public notice and comments were collected.[25]

49. Prior to RM-11810, distance separation requirements from LPFM stations to FM translators and other LPFM stations was done through a simple distance separation formula where, for FM translators, is based on a calculation of the FM translator's effective radiated power ("ERP") and height above average terrain ("HAAT") along 12 radials and then divided into three "sub classes".[26] For LPFM, it was a simple distance separation requirement of 24 kilometers ("km") for co-channel and 14 km for first-adjacent channels.[27]

50. In 2000, Congress passed the Radio Broadcast Preservation Act, which created Section 632(a)(1) of the 2001 DC Appropriations Act ("Appropriations Act") which stated that the Commission was to "prescribe minimum distance separations for third-adjacent channels (as well as for co-channels and

---

the underlying regulations are being proposed as amendments to the Rules in MB Docket 24-626 to conform with the methods used in the 2023 window. While REC does support the principles of some of those unexpected changes, which will get into further details in our comments in that docket, REC did suffer some damage as a result of Division staff departing from well-established regulation to try something different.

[23] 47 CFR §73.809(a).

[24] 47 CFR §73.809(b) through (e).

[25] See *Reference Information Center Petition for Rulemakings Filed,* Public Notice, DOC-351813 (Jun. 20, 2018). See also *REC Networks*, Petition for Rulemaking, RM-11810 (Jun. 13, 2018) ("RM-11810").

[26] 47 CFR §73.807(c).

[27] 47 CFR §73.801(a)(1).

first- and second- adjacent channels)".[28] In 2011, the LCRA specifically amended the §632(a)(1) Appropriations Act to read "prescribe protection for co-channels and first- and second-adjacent channels". The phrase "minimum distance separation" was removed from §632(a)(1) at the time of the enactment of the LCRA. Section 3(b)(1) of the LCRA specifically prescribed distance separation as the method of protecting *full-service* FM stations.[29]

51. In RM-11810, REC specifically argued that with the change of language in the Appropriations Act and the new Section 3(b)(1) language in the LCRA that singled out full-service FM stations, it was the will of Congress that full-service stations were still required to meet the distance separation table in §73.807, however FM translators did not require the use of the distance separation table as long as protections to co-, first- and second-adjacent channels were prescribed.[30]

2. Proposal

52. To address this, REC proposes to create a new rule section 73.815, which would, in part, establish a new contour protection method of protecting incumbent FM translator facilities if the distance between the proposed LPFM facility and the FM translator facility did not meet the minimum distance separation requirements of §73.807(c).[31]

53. In the *Report and Order* for MB Docket No. 19-193, the Commission declined REC's suggestion that contour protection citing "greater complexity and interference remediation obligations associated with contour protections" as "not best suited for the LPFM service".[32]

54. REC has long disagreed with the Commission's position that the use of contours or any other advanced engineering method is "too complex" for the LPFM service. In REC's *Comments* for MB Docket No. 19-193, we stated that LPFM was a "mature service" and that in the 2013 LPFM filing window, a majority of the applications were prepared with "hired help" and addition to that hired help, the LPFM community has various tools, such as REC's myLPFM and Prometheus Radio Project's RFREE, which are capable of or can otherwise be updated to support such contour studies.[33] REC does concede that the contour method proposed by us in RM-11810 did lack an interference remediation process, similar to §§ 74.1203 and 74.1204(f) as applicable to FM translators.

55. REC does feel that it is in the public interest to bring the regulation closer to the underlying statute. We are proposing a new Section 73.815 as detailed in Appendix A. This new regulation would provide for the use of an alternate regime for the use of contour overlap, in respect to the protection of FM translators and other LPFM stations, while still maintaining the statutorily required distance separation requirements between LPFM stations and domestic full-service FM broadcast stations. The proposed Section 73.815 also incorporates an interference remediation policy that is similar to what is currently applicable to FM translator stations. The benefits to this change include the continuity of a local radio service that the public has depended on for years through a creative method of maintaining LPFM service. We note that the way we have written §73.815, we had done so in a manner where it's invocation by a

---

[28] Pub. L. 106-553, §632, 114 Stat. 2762, 2762-A-111 (2000) ("RBPA").
[29] LCRA §3(b)(1) ("IN GENERAL-The Federal Communications Commission shall not amend its rules to reduce the minimum co-channel and first- and second-adjacent channel distance separation requirements in effect on the date of enactment of this Act between- (A) low-power FM stations; and (B) full-service FM stations.")
[30] RM-11810 at 19-21.
[31] *Id.* at 21.
[32] *Amendments to Parts 73 and 74 to Improve the Low Power FM Service Technical Rules,* Report and Order, 35 FCC Rcd. 4115 (2020) ("Tech Order") at 4137.
[33] *Comments of REC Networks,* MB Docket No. 19-193 (Oct 21, 2019) at 40.

LPFM station is completely optional. In addition, we are proposing to allow LPFM stations to invoke §73.815 only in the context of minor modifications and not during filing windows for new LPFM stations. This is being done to prevent any new administrative burdens on Commission staff in respect to filing window application processing.

56. It has been a long-standing objective of many in Congress, especially those in the current majority political party to bring the regulations and policies of federal agencies, such as the Commission closer to what reflects in statute, thus giving Congress more basic control over the policies of those agencies. What we are proposing here is consistent with those objectives as it removes an unnecessary burden that faith-based and secular LPFM stations experience when faced with a soft or hard displacement. We must continue to acknowledge that LPFM is a mature service and especially at times after the station is constructed and on the air, which is when this proposed regulation would come into play, these stations have already established the proper connections with professionals who are capable of filing such applications and they have gained the knowledge to understand the principles behind them.

3. Relevant policy factors

57. *Experience gained* – Since the creation of the LPFM service in 2000, we have seen a significant increase in the number of FM translators through Auctions 83, 99 and 100. We have experienced how this increase in secondary facilities, when properly engineered, has resulted in a more efficient use of finite spectrum. We have also seen how through the use of directional antennas and variable power levels, these facilities can help improve FM radio service in many areas, with very few cases of actual interference and furthering the overall relevance of radio in our culture. The thousands of test cases from those three auctions, most utilizing FM facilities that are far superior to those of LPFM facilities clearly show that, with the right safeguards that we have proposed, can be easily done in smaller LPFM facilities.

58. *Broader regulatory context* – One of the previous regulatory changes that made further demonstrated the viability of secondary services, such as FM translators to preserve the integrity of the FM broadcast band was the complete restructure of the interference remediation regime that came out of MB Docket 18-119 which modified §§ 74.1203 and 74.1204(f) of the Commission's Rules.[34] The policy that came out of 18-119 would work perfectly as part of an LPFM interference remediation regime in the event that an LPFM station was to use the "non-simplified" method that we propose here. This assures that all incumbent FM users, including full-service FM stations, FM translators and even other LPFM stations have a form of redress available to them in the event of such interference.

59. *Changes in legal framework* – The ability to propose a regulation like this came with the enactment of the LCRA. In the original language of the RBPA, Congress stated that the Commission shall modify the rules to "prescribe minimum distance separations for third-adjacent (as well as for co-channels and first- and second-adjacent channels)."[35] Subsequently, section 2 of the LCRA would amend Section 632 of the *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001*[36] to change the language of Section 632(a)(1) to simply read "prescribe protection for co-channels and first-adjacent channels".[37] In this case, Congress specifically removed language related to minimum distance separations in LCRA section 2, while in section 3(b)(1), new language was placed there that would specifically state that "[i]n general, the Federal Communications Commission shall not

[34] *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference,* Report and Order, 34 FCC Rcd. 3457 (2019), *recon. denied* 35 FCC Rcd. 11561 (2020).
[35] RBPA at §632(a)(1)(A).
[36] Pub. L. 106-553; 114 Stat. 2762A-111.
[37] LCRA §2.

amend its rules to reduce the minimum co-channel and first- and second-adjacent channel distance separation requirements in effect of the date of enactment of this Act between- (A) low-power FM stations; and (B) full-service FM stations."[38] To prevent any confusion as to what constitutes a "full-service FM station", Congress made that clear in LCRA section 5(3), which states that when licensing new FM translator stations, FM booster stations, and low-power FM stations, that the Commission shall ensure that "FM translator stations, FM booster stations, and low-power FM stations shall remain equal in status and secondary to existing or modified full-service FM stations."[39]

60. The language in LCRA section 5(3) specifically demonstrated that an FM translator facility is not a "full-service FM station" making it very clear that section 3(b)(1) does not apply to FM translator facilities as they are not considered as full-service FM stations. As a result in the change in legal framework, there is no longer a statutory reason why LPFM stations must use distance separation in order to protect FM translator facilities. The proposed changes we have presented in this proceeding are statutorily proper. Despite this flexibility, we must consider the need keep some form of simplicity in the service, while allowing for this type of engineering flexibility by those who have the ability to provide such engineering solutions. This is why we are keeping the minimum distance separations in place, now to identify what is considered an "affected station" and allowing the use of contours in lieu of distance separation, similar to rules that currently exist between FM facilities, including LPFM facilities, operating on channels 201 through 220 with TV broadcast stations on channel 6.[40]

61. *Other relevant considerations* – The use of distance separation towards LPFM stations was originally for the purpose of simplification of the service. This type of distance separation towards FM translators is not used in any other service. The creation of the LPFM service created new "sub-classes" of FM translators based on distance to the 60 dBu service contour based on effective radiated power (ERP) and height above average terrain (HAAT) along 12 cardinal radials. Like with other simplification methods, it has placed a considerable burden on LPFM stations, especially those facing incoming interference or even forced displacement as a result of application activity of full-service FM stations. The ability to sustain a well-established local transmission service that the public has depended on, albeit being a secondary service, must be preserved using every possible option that is available within statute. This proposal achieves that.

D. Interference protection to full-service FM stations

Change Type	Rule section(s) affected):
Update	73.809

1. Overview

62. Prior to the *Sixth Report and Order* in MB Docket No. 99-25, LPFM stations were required to protect other broadcast stations, including full-service stations on their intermediate frequency IF) channels.[41] In the rulemaking proceeding that lead up to the *Sixth Order*, REC had argued that because LPFM stations were at 100 watts maximum ERP, they should not be required to protect IF channels, especially considering that FM translator stations operating equal or less than 99 watts ERP were subject to

[38] LCRA §3(b)(1).
[39] LCRA §5(3).
[40] *See e.g.* §§73.525, 73.825 and 74.1205.
[41] *Creation of a Low Power Radio Service*, Sixth Report and Order, 27 FCC Rcd. 15402 (2012) ("Sixth Order").

IF protection requirements. The Commission agreed with REC's findings and eliminated the IF protection requirements to domestic full-service FM and FM translator stations.[42]

63. In the associated rule change, the Commission amended the introductory text to §73.809, paragraph (a) by striking out provisions that made subsequent modifications made by stations on IF channels subject to the interference remediation rules. However, when doing so, the Commission forgot to amend subparagraph (a)(3) which refers to the definition of intermediate frequency interference.

2. Proposal

64. This requested change to §73.809 is simply to **delete** extraneous language in §73.809(a)(3) by striking the second sentence ("Intermediate Frequency (IF) channel interfernce will be determined based on overlap of the 91 dBu F(50,50) contours of the FM and LPFM stations.") while maintaining the rest of the language in the subparagraph. This proposed change is a non-substantive modification to remove obsolete language from the regulations.

3. Relevant policy factors

65. *Broader regulatory context* – With the changes that took place in the *Sixth Order*, LPFM stations are not required to protect full-service stations on IF channels. We also note that the new translator interference policy adopted in MB Docket 18-119 also did not address IF channels. Even if we incorporate new protections from LPFM stations to IF channels with a new LP250 class of service, the changes made to FM translators in MB Docket 18-119 clearly show that any need to provide any kind of interference remediation to IF channels is not necessary.

66. *Other relevant considerations* – This appears to be simply a case of stray language that should have been removed at the time the underlying regulation was removed, which in this case, was in the *Sixth Order* back in 2013. REC also raised this issue in the past, in rulemaking petitions and in comments for MB Docket 19-193. For the sake of government efficiency, this portion of the regulation should be **deleted**. This was simply a conforming edit that was missed.

E. LPFM Antennas – Proof of Performance

Change Type	Rule section(s) affected):
Delete	73.816

1. Overview

67. §73.816(d)(3) states that if a directional antenna is proposed for an LPFM station, that the requirements of §73.316(c) would apply with some exceptions.[43] Those exceptions include where the directional antenna is for the sole purpose of achieving a waiver of the distance separation requirement for second-adjacent channels, for public safety applicants (Travelers' Information Service) or if being used to comply with an international agreement.[44] All other purposes, including the protection of TV Channel 6 stations by LPFM stations on Channels 201-220 would require meeting the requirements of §73.316(c).

68. §73.316(c) would require LPFM stations wishing to use a directional antenna for purposes other than those exempted to obtain a proof of performance from the manufacturer; a statement that the antenna was mounted per the recommendations of the antenna manufacturer; a statement that the directional

[42] *Id.* at 15424-15425.
[43] 47 CFR §73.816(d)(3).
[44] *See Id.*

antenna is not mounted on the top of an antenna tower which includes a top-mounted platform larger than the nominal cross-sectional area of the tower in the horizontal plane; a statement that no other antenna of any type is mounted at the same tower level as a directional antenna, and that no antenna of any type is mounted within the horizontal or vertical distance specified by the manufacturer as being necessary for proper directional operation; a statement from an engineer listing such individual engineer's qualifications and certifying that the antenna has been installed pursuant to the manufacturer's instructions; and a statement from a licensed surveyor that the installed antenna is properly oriented.[45]

69. The history behind this regulation was originated by REC's *Petition for Rulemaking*, RM-11810. In RM-11810, REC proposed that LPFM stations that did not meet the required distance separation requirements as a LP100 station could use the LP10 minimum distance separation requirements and then use contour protection to demonstrate protection to full-service stations. NAB opposed this concept, which we called the "§73.815 Regime" (no relation to the concepts we present in this pleading which also use that proposed rule section) and insisted that if LPFM was able to use the RM-11810 §73.815 regime, that a proof of performance should be required.[46]

70. Since this rule was enacted, REC is aware of only one LPFM station that is subject to it. We note that there have been several incidents where staff had erroneously imposed the conditions in cases where one of the exempted use cases was utilized. In these cases, REC had intervened with the applicants and staff to resolve the issues.

71. With the exception of the exempted application for a second-adjacent channel waiver, for which there is an interference remediation process already in place, all LPFM stations operating directional antennas must meet the LP100 minimum distance separation requirements with full-service FM stations on co-channel and first-adjacent channels and thus, not using the directional pattern to demonstrate some form of protection. In these cases, the peak ERP along the farthest lobe cannot exceed the ERP that would be authorized for the LPFM station if it were a nondirectional facility.

72. It is REC's position that when the Commission denied our petition in RM-11810 to establish the RM-11810 §73.815 Regime in the *Tech Order*, there was no longer a need to use a directional antenna to protect other domestic radio facilities, other than the exempted activities related to second-adjacent channel waivers and international agreement compliance; both which have remediation processes already in place.

73. Even with the use of §73.815 in this pleading, the scope of the proposal will be limited to the protection of FM translators and will provide an interference remediation policy that is similar to that for new and modified FM translator facilities and would only be available on modification of facility applications and not for original construction permits.

74. Of all of the rule changes we are evaluating in this proceeding, this is one of the most unnecessary rules currently in Part 73; mainly because the actual use where this rule would otherwise be effective was denied in the *Tech Order*. The addition of an interference remediation process in the proposed §73.815 will put LPFM stations on an equal footing with FM translators. This is a rule to address a "problem" that does not exist and was not going to exist since the Commission rejected the RM-11810

[45] 47 CFR §73.316(c).

[46] In the RM-11810 §73.815 regime, we were using concepts borrowed from §73.215, which is for short-spaced full-service FM stations. REC is *not* proposing the RM-11810 §73.815 Regime concept in this pleading. Instead, we had proposed a protection method utilizing contours instead of distance separation be used to protect short-spaced FM translators, which are not subject to LCRA §3(b)(1).

§73.215 Regime in the *Tech Order*. §73.816(c) truly is, what Executive Order 14192 refers to as an "unnecessary regulatory burden".[47]

2. Proposal

75. REC proposes that the Commission **delete** §73.816(c).

3. Relevant policy factors.

76. *Cost-benefit considerations* - LPFM stations which do operate directional antennas, mainly for the purposes of achieving a second-adjacent channel waiver or due to international agreements normally run simple "off the shelf" antennas, which are normally purchased for less than $2,000. To impose a requirement for proof of performance for other reasons would normally increase the cost for the antenna by at least $4,000, not to mention additional funds paid for surveyors and the other studies needed.

77. If the Commission was to move forward with our proposed changes to allow for LPFM stations to use a contour study to protect an effected FM translator facility, this may increase the need for directional antennas, mainly "off the shelf" versions. Since are also proposing an interference remediation policy that is along the same lines as FM translators seeking modifications, it is our position that this will address any issues that may arise from the use of directional antennas in the same way that it protects incumbent stations from new or modified FM translators. Otherwise, the regulations would unfairly favor FM translators over LPFM stations and impose a massive burden on LPFM stations thus threatening the continued community service an LPFM station provides after they face new interference from primary or secondary facility modifications.

F. Licensing requirements and service

Change Type	**Rule section(s) affected):**
Change	73.853, 73.855, 73.872

1. Current definition of "local"

78. LPFM is truly a unique service. One unique aspect of this service is the requirement that applicants must be and remain "local". §73.853(a) includes three different classifications of LPFM eligible organizations: (1) educational organizations and institutions upon a showing that the LPFM station would be used to advance an educational program; (2) government and non-government providing a non-profit service for the purpose of public safety; and (3) Tribal organizations.[48] §73.853(b) defines what is considered as "local".[49] For educational organizations and institutions, either the organization's headquarters must be located or at least 75 percent of their governing board must reside within 10 miles of the LPFM station's antenna for stations located within the Nielsen Audio designated top-50 metro markets or 20 miles elsewhere; for stations claiming a public safety purpose, the station must be able to serve the entity's jurisdiction; and for Tribal organizations, the station must serve Tribal lands.[50]

[47] See *e.g. Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 24 FR 9065 (Feb. 6, 2025).
[48] 47 CFR §73.853(a).
[49] 47 CFR §73.853(b).
[50] *Id.*

2. LPFM stations in the top-50 radio markets

79. In 2000 when LPFM was first created, the Commission did not place any specific restrictions on the localism of stations.[51] It did, however, recognize the need for local services to have priority. As such, the Commission limited eligibility to local entities for the first filing window series.[52] In 2007, recognizing that it would help maintain the local character of LPFM stations, the Commission made permanent, the requirement that LPFM stations be local, which for stations with an educational purpose is to have either their headquarters or 75% of the governing board within 10 miles of the transmitting antenna within the top 50 Neilsen Audio media markets and 20 miles elsewhere.[53]

80. Over the years with a distinction between the top 50 markets and other locations, we have made some observations and experienced some issues.

81. *Dependency on Nielsen Audio* - First, the method of using the top 50 markets is dependent on the use of data from Nielsen Audio, a private sector company that does not follow any specific federal regulations or laws in the establishment of markets. In addition, in most cases, market boundaries are at the county level. This includes rural areas of larger counties, such as Los Angeles County, California which has a mix of urbanized and rural areas, all subject to the "10 mile rule" due to the fact they are in the same county as the second largest media market in the country, even if most commercial stations do not reach that part of the county due to terrain and other factors. In addition, Nielsen data on counties and subdivisions of counties that encompass the boundaries of their designated markets is not made freely available. This means that only paid subscribers and any other "invited guests" may be able to receive this data. Finally, the markets are based on population and thus, the market rankings can change on an annual basis. An LPFM station that was not in a top 50 market at the time of their application may eventually find themselves in a top 50 market. In those cases, such a station may find themselves in a situation that they cannot truthfully certify on a subsequently filed modification or renewal application that they meet the localism guidelines due to a change in the designation of the top 50 markets that was completely out of their control.

82. *Urban sprawl and the location of board members and headquarters* – Even within large cities, such as Los Angeles, the transmitting antenna may not be within 10 miles of the headquarters or 75 percent of the governing board for many organizations because of the general nature of such organization as well as restrictions on availability due to minimum distance separation requirements (especially in areas with crowded spectrum), the need to meet a second-adjacent channel waiver or due to local land use restrictions.

83. *LPFM stations close to a market boundary* – During the 2023 LPFM Window, REC had encountered stations where the station was near the boundary between a top-50 market county and a non-top 50 market county. This creates a situation where the transmitter site must be placed in the less desirable non-market county because while the station may not be able to achieve localism if the transmitter site is in a top-50 county, they may be able to achieve localism if the transmitter is outside a top-50 county and organization's headquarters or 75% of the governing board members are within 20 miles.

---

[51] See *Creation Of A Low Power Radio Service*, Report and Order, 15 FCC Rcd. 2205 (2000) ("LPFM Order") at 2218.
[52] *Id.* at 2215-2216.
[53] *Creation of a Low Power Radio Service*, Third Report and Order, 22 FCC Rcd 21912 (2007) ("Third Order") at 21921-21923.

3. Public safety radio services

84. When the Commission created LPFM in 2000, a need was identified by the New York State Thruway Authority to permit LPFM stations to be used for public safety purposes as a replacement or enhancement to Part 90 Travelers' Information Service ("TIS") stations, which are allocated to the AM broadcast band.[54]

85. Where entities that are educational organizations or institutions with an educational purpose are limited to attributable interests in only one LPFM station, entities that use LPFM stations for public safety purposes may operate multiple LPFM stations.[55] Over the history of LPFM, there have been attempts by private sector entities to obtain multiple LPFM stations by falsely claiming that they are a public safety entity with jurisdiction in the area that the LPFM station serves.[56]

86. The issue regarding private sector entities requesting multiple stations seriously came to light in the 2023 Third Generation LPFM Filing Window with filings made by several private sector entities that claimed to be "public safety" and having jurisdiction requesting either one station[57] or in one case, the entity requested over 200 stations.[58]

87. The hundreds of "public safety" applications would be dismissed by Audio Division staff, citing section 309(j)(2)(A) of the Communications Act of 1934, as amended.[59] That section defines "public safety radio services" as "including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that (i) are used to protect the safety of life, health, or property; and (ii) are not made commercially available to the public".[60]

88. The major question in this issue related to "jurisdiction". Normally what constitutes jurisdiction is an official recognition from a State or County entity that officially recognizes the entity's operation through the creation of a district. Such districts can include Fire Protection Districts for the purpose of volunteer fire companies, many of which are private sector nonprofits and transit districts, which are managed by a public sector entity. Jurisdiction does not mean that a state agency does not have a memorandum of understanding with a private sector entity to broadcast public safety messages or in the case of *Estero Bay,* where the public sector entity funded the provision of an Emergency Alert System ("EAS") decoder. Jurisdiction is related to those entities that roll the police cars and fire trucks. Those entities that are truly engaged in non-broadcast public safety functions, consistent with section 309(j)(2)(A).

---

[54] See *Id.* at 2215. *See also* 47 CFR §90.242.
[55] 47 CFR §73.855. Tribal entities may have attributable interests in up to 2 LPFM stations.
[56] See *Pacific Coast Conservation Alliance (assignor) and Estero Bay Community Radio (assignee)*, File No. BALL-20170727ACQ (*dismissed* Jul. 18, 2018), File No. BALL-20200203AAA (*dismissed* Mar. 16, 2020); File No. BALL-20200915ABK (*dismissed* Jan. 21, 2021) (collectively *"Estero Bay"*) *See also REC Networks*, Informal Objection, File No. BALL-20200203AA (Feb 7, 2020).
[57] *See Portsonic Communications, LLC*, File No. 0000231418 (*dismissed* Mar. 13, 2024); *Natural State Community Radio Corp*, File No. 0000231967 (*dismissed* Jul. 7, 2024); *Bexar County Public Safety Association*, File No. 0000232724 (*dismissed* Jan. 14, 2025).
[58] *Weather Alert Radio Network*, Letter, 39 FCC Rcd. 1361 (2024); *recon. denied*, DA 24-735 (Jul. 30, 2024), *review pending*.
[59] See note 37 *infra*.
[60] 47 USC §309(j)(2)(A).

4. Designation of headquarters

89. §73.853(b)(1) allows an organization's headquarters, its "local chapter", "branch" or "campus" to by physically headquartered with 10 or 20 miles of the transmitting antenna. This has led to some confusion and abuse of process in past filing windows. Someone can easily put their residential address down as a "branch" of the organization even though they may not have any legal documents to support that claim. With the exception of "campus" in an educational institution environment, there is simply no need for this "local chapter" and "branch" language to even be considered. Educational institutions that claim the headquarters is their branch should include documentation, such as course brochures to demonstrate that the organization actually has a campus at a qualifying location.

4. Proposed changes to eligibility requirements

90. In the interest of creating more efficient regulations and to address many of the issues that both staff and REC had encountered during and before the 2023 Third Generation Filing Window, REC proposes to restructure the ownership eligibility requirements for LPFM.

91. First, we propose to eliminate the concept of "public safety" from the LPFM service. The need for the public safety aspect was originally intended to replace the AM radio based TIS stations. Even though after the first LPFM filing window series, many states were granted dozens of construction permits to build stations, various economic conditions in the mid-2000s that created "fiscal emergencies" in state and municipal governments had resulted in these entities losing their funding to build these stations. We further note that technological advancements such as in-car navigation and warning systems well as advanced road signage have further contributed to the obsolescence of TIS and the need for public safety-based radio services. This will completely eliminate the loophole that permits private sector entities from attempting to obtain multiple stations using the "public safety" defense.[61]

92. Second, we propose to reduce the classification of eligible entities to from three to two categories: (A) Educational entities that are public or private sector nonprofit educational entities that are proposing an educational radio service to advance the entity's educational objectives; and (B) public sector entities, including state, county, municipal and Tribal governments as well as formed districts (such as fire protection and transit districts) that are not educational institutions proposing a radio service providing a one-way broadcasting service to listeners within their jurisdiction.

93. Third, we propose that an organization's "headquarters" is the actual physical location, as reported to the Secretary of State in their appropriate state to be the true headquarters of the organization. The exception will be for bona fide educational institutions. In this case, the educational institution must be able to provide written evidence that they have that campus. We also propose a change to Form 2000, Schedule 318 to include a place to enter the applicant's claimed headquarters within the four corners of the application, similar to the address they must provide if they claim the main studio point, pursuant to the selection process detailed in §73.872.

94. Under this restructuring, educational entities would still be limited to one LPFM station and up to two FM translators, two FM boosters or one of each while public sector entities may operate multiple stations that provide service into their jurisdiction. During filing windows, public sector entities that are not Tribes would be able to designate one application as a "priority" application, which allows the

[61] We note that there are a very small number of LPFM stations that are operated by nonprofit entities, mainly volunteer fire companies that do provide public safety services, as described in 47 USC §309(j)(2)(A). Those private sector entities' use of LPFM stations for that purpose should be grandfathered in and would not prejudice them from acquiring additional stations within their designated jurisdiction.

application to be considered in the event of mutual exclusivity during a filing window. Tribal entities would be able to designate up to two applications as priority. Public sector entities can own up to two secondary facilities (FM translator or FM booster) multiplied by the number of LPFM stations they hold.

95. This restructuring removes the distinction between Tribal and non-Tribal public sector entities. This change would also mean that Tribal governments and similar Tribal entities would be able to obtain more than two LPFM stations. This is helpful, especially in Arizona and other places in the west where Tribal lands are significantly large. This addresses a burden on Tribes who would have otherwise been limited and selective over which parts of their community deserve radio and which do not.

96. For educational entities, we are proposing to remove the top-50 market designation and have a single guideline for localism to require the organization's headquarters or 75 percent of the governing board members to be within 20 miles of the transmitting antenna. We are also proposing to amend §73.872 to extend the definitions of "established community presence", "local program origination" and "main studio" to 20 miles nationwide, consistent with this proposed redefinition of localism. These proposed changes better reflect the nature of nonprofit organizations, gives governing board members more flexibility to move and remain involved with the station, ends a level of discrimination that is based on boundaries and removes the LPFM service's reliance on Nielsen Audio, a private company that restricts access to their ever-changing market boundary data.

97. A quick reference to the two restructured LPFM categories are shown in the table below:

	Educational	**Public Sector**
Qualification	Public or private sector nonprofit educational entities proposing an educational radio service to advance the entity's educational objectives.	Public sector entities (state, county, municipal, district, Tribal) that are not educational institutions proposing a radio service providing a one-way broadcasting service to listeners within their jurisdiction.
Localism	Either the organization's headquarters physically located in, or 75% of the board members with permanent residences within 20 miles of the transmitting antenna.	The proposed facility must provide service into any portion of the entity's jurisdiction.
Station limit	1 station.	Multiple stations within the jurisdiction. One station (two for Tribal) would be considered a priority station.
Translator/booster ownership	2 stations.	2 stations per LPFM station.

5. Relevant policy factors

98. *Marketplace and technical changes* – The analysis on the 10 vs. 20 mile limit was based on the reality of nonprofit organizations, especially in more spread out places such as Los Angeles, Phoenix and Dallas. It is also prompted by the reality of where LPFM stations are actually located. When LPFM was originally conceived, the thought was stations would be in inner-city neighborhoods and have a fairly strong urban focus where a 10-mile limit may seem reasonable. Since the original adoption of the LPFM service, the passage of the RBPA where third-adjacent channel protections were mandated foreclosed on many of those deep urban opportunities. Even after the LCRA was signed into law, many opportunities were lost as a result of Auction 83 and the subsequent modifications. After the 2013 Second Generation LPFM Filing Window, the various AM Revitalization initiatives, such as the "250 mile move" waiver as well as Auctions 99 and 100 eliminated many more deep urban opportunities.

99. In the case of the public safety definition, the real need for this distinction died in the mid 2000s as municipalities and state governments were facing "fiscal emergencies" and had to cancel many projects and cut services. The growth of infotainment systems in vehicles and navigation services such as Google Maps and Waze have substantially reduced the need for travelers information stations and thus the need for public safety LPFM stations. The original agencies that proposed this public safety carveout back in 2000 would eventually shut down their stations, not build others and never came back in 2013.

100. *Barrier to entry* – The current 10 mile policy, while effective if LPFM was truly to be focused on deep urban neighborhoods, which never transpired due to the enactment of the RBPA and the subsequent FM translator auctions 83, 99 and 100 as well as due to other activities related to AM Revitalization, is now seen as discriminatory towards those organizations that are in suburban and rural areas of counties that are considered by Nielsen Audio as being in a top-50 market. This prevents these organizations, that may be more spread out, but still local from having an opportunity at the LPFM service. Removing the 10 mile policy and replacing it with a 20 mile policy across the board would address this barrier to entry.

101. *Other relevant considerations* – In the 2023 LPFM Filing Window, the public safety carve-out had generated numerous cases of abuse of process where entities that claimed to be a public safety agency with specific "jurisdiction" did not meet the statutory definition of public safety radio services. Similar issues took place with out of area applicants who attempted to use local addresses as "branches". Many of those cases from the 2023 window are still pending at this time. The proposed changes would eliminate any incentive to engage in abuse of process for these reasons and would add additional integrity to the LPFM licensing process.

G. Cross-ownership of LPTV stations by Tribal entities

Change Type	Rule section(s) affected):
Change	73.860

1. Overview

102. One of the primary foundations of the LPFM service was that it was originally intended for new entrants without any other broadcast interests. In 2012, as a part of several initiatives that the Commission has enacted that improved telecommunications and the overall quality of life on Tribal lands, the Commission proposed a new qualification for LPFM stations to include Tribal entities.

103. This created a conflict as some Tribes already had various types of broadcast stations, which were either low power television ("LPTV") stations that provided entertainment, educational and informative programming to residents of the Tribal lands as well as those Tribal enterprises operating full-service AM, FM and TV stations that were intended to not only provide services to their Tribal lands, but also to compete with non-Tribal commercial broadcast stations. At the time, some of us envisioned LPFM to be used as a method of reaching Tribal residents, and while other Tribal radio stations did reach Tribal ersidents, they were also focused on non-Tribal listeners.

104. The issue that came up at the time, where it came to cross-ownership of other broadcast facilities with LPFM when it involved a Tribal entity. There were arguments both for and against it. The Commission decided at the time to not codify a rule, but instead, would entertain waiver requests on a case-by-case basis.

105. REC has observed that some Tribes, such as the Gila River Indian Community ("GRIC") in Arizona utilize LPTV stations on a noncommercial basis for the purpose of educating and informing

Tribal members in a more hyperlocal way that would not be viable on a full-service TV station. It is our position that the cross-ownership of LPTV and LPFM stations that mainly serve the areas within Tribal lands, especially on larger reservations such as GRIC would not jeopardize diversity of ownership on the FM band and in most cases, the locations of these LPFM stations would not necessarily foreclose on LPFM or FM translator opportunities outside of Tribal lands. For Tribal nations, we see LPFM stations as a method to provide education and emergency location to those who may be traveling on Tribal land or who otherwise do not have immediate access to a TV receiver.

106. We are also concerned because, unlike the non-Tribal structure of the public and private sectors, most commercial and non-commercial enterprises that operate on Tribal lands have organizational structures that would eventually roll-up to the Tribal Council. This can make it difficult for a Tribal school to have an LPFM station even though the Tribe may already operate a full-service FM broadcast station.

107. While REC does agree that there would be concern regarding diversity in respect to Tribal cross-ownership of AM and FM broadcast facilities, we see television as a totally unique medium that is not much mutually exclusive with radio other than it is a broadcasting service. Likewise, we do not have the concerns regarding diversity in the matter of LPTV stations operated by Tribal entities to serve residents of Tribal lands.

2. Proposal

108. To relieve a burden faced by these Tribes and to promote public safety and education, REC is proposing to amend the rules to permit the limited cross-ownership of LPTV stations by Tribal LPFM applicants. There must be an attributable interest between the LPFM and the LPTV station, even if the attribution is indirect (such as a subsidiary of the Tribe). We are not proposing to extend this carve-out to full-service radio nor to full-service and Class A TV stations as there would be more of a treat to diversity. We are not proposing this time of a cross-ownership arrangement to any non-Tribal applicant. It is intended to address the specific needs for Tribes to provide education, information and public safety within their Tribal lands.

3. Relevant policy factors

109. *Barrier to entry* – Tribal nations are just that, they are nations. They are all encompassing in the services they provide to their members, both on and off of Tribal lands. Likewise, these Tribal nations may wish to use different mediums of mass media in order to serve different purposes. For example, a full-service AM station, such as KTNN in Window Rock, Arizona may reach a very large audience, both on and off of Tribal lands with information and entertainment and do so in order to sell advertising to raise well needed funds to support the services that the Tribe offers. Meanwhile, they may use one or more LPTV stations to reach out to members living on Tribal lands, especially in more remote areas where cable or fiber does not reach. Likewise, they could use one or more LPFM stations to provide emergency information and educational programming to those on Tribal lands, especially in situations where the listener does not have immediate access to a TV set. The current LPFM rules prohibit a Tribe from enjoying this potential mass media scenario based on a fear that such cross-ownership would impact ownership diversity, which is not an issue on Tribal lands as, in many cases, the Tribes control all media that operates on their lands. The current policies that prohibit cross-ownership by Tribes is discriminatory and in many (but not all) cases, does not jeopardize the diversity of radio ownership outside of Tribal lands. This restriction discourages Tribes from participating in LPFM and thus, is a barrier to entry.

H. Modernizing the definition of Local Program Origination

Change Type	Rule section(s) affected):
Change	73.872

1. Overview

110. In the *Sixth Order*, the Commission redefined "local program origination" as "licensee produced call-in shows, music selected and played by a disc jockey present on site, broadcasts of events at local schools, and broadcasts of musical performances at a local studio or festival, whether recorded or live. Local origination does not include the broadcast of repetitive or automated programs or time-shifted recordings of non-local programming whatever the source."[62]

111. While this would have been a good definition in 2012, there have been many technological advances and new methods of providing programming, escalated further by the COVID-19 pandemic when lockdowns caused stations to not staff main studios and favoring remote live programming and prerecorded first-run programs.

112. We must also recognize that certain abilities such as "voice tracking" have made it easier for stations to produce programming that is "first run" and curated by a "disc jockey", but instead of having a live person present at the station, the spoken pieces from the disc jockey are recorded in pieces and uses the music library in the station's automation system. This type of first run program is just as local as a disc jockey sitting in a brick-and-mortar studio. We further note that the use of voice tracking through a station's automation system allows the station to better keep logs of the music played to better facilitate any reports requested by performing rights organizations such as ASCAP, BMI, SESAC and SoundExchange. Such automated processing of logs eliminate the need for music to be logged on paper or through an additional third party service such as Spinitron. This would result in cost savings and increased efficiency for LPFM stations, which historically had a small number of staff and volunteers.

2. Proposal

113. REC proposes to modernize the definition of "local program origination" based on these advances and "the new normal". We propose to redefine "local program origination" as follows:

> "Produced call-in shows, music selected by a disc jockey present on site **or from a remote location within 20 miles of the proposed transmitting antenna, curated through an automation system using voice tracking technology following a specific playlist or as a pre-recorded program, where voice tracks are recorded from a location within 20 miles of the proposed transmitting antenna,** broadcast of events at local schools and broadcasts of musical performances at a local studio or festival, whether recorded or live. Local programming does not include the broadcast of repetitive programming, **automation where voice tracking technology is not utilized** or time-shifted recordings of non-local programming, whatever its source." *(Proposed changes emphasized in **bold**.)*

3. Relevant policy factors

114. *Marketplace and technological changes* – Products like Aiir's WebVT and Station Playlist's Remote Voice Tracker now make it even easier for stations to not only operate with voice tracking, but to do so remotely. Voice tracking is gaining popularity because it allows local talent to put together a

[62] *See Sixth Order* at 15470-15471. *See also* 47 CFR §73.872(b)(2).

show from any location with fresh local content in a fraction of the time that it takes to do a live shift. The "new normals" that arose from the pandemic are still being utilized at some community stations. Voice tracking provides many of the conveniences to operate automated but also provides the unique ability to add compelling local content between the songs. The music that stations play is mostly recorded anyway. Voice tracking and remote studios allow stations to improve their local content by allowing disc jockeys, show hosts and other presenters to record or present their programming from the convenience from their home, up to 20 miles from the transmitting antenna.

I. Operating agreements

Change Type	Rule section(s) affected):
Change	73.860, 73.879

1. Overview

115. In Band On Channel (IBOC) digital audio broadcasting technology, known commercially as hybrid HD Radio has the unique ability to provide for listeners with compatible equipment, up to four different programming choices from a single radio with the primary stream (HD1) also being heard in analog for listeners with incompatible radios.[63] There are currently a small number of LPFM stations using HD Radio and REC has received queries from other stations regarding the technology.[64]

116. As the additional streams are not individually licensed by the FCC, they are all within the control of the LPFM or full-service FM licensee running HD. LPFM (and any full-service FM) licensees are not granted any kind of special treatment or additional spectrum to HD operations. FM facilities operating HD are protected the same way that analog-only FM facilities are protected.

117. The capability of additional streams would allow LPFM and full-service FM stations to bring in a diversity of programming with different languages or music genres. This could open up some significant opportunities to bring "more choices and more voices" to the FM dial.

118. We have found that some of the best originators of programming are LPFM stations and sometimes, an LPFM station may not be able to reach its entire audience with one station or the demographics of the community that an LPFM station is trying reach may be both in their own community and a nearby community that also has an LPFM station or an opportunity to have their audio heard on a full-service FM station's HD stream..

119. §73.860(e) prohibits LPFM stations from reaching operating, time brokerage and management agreements with other broadcast stations, including other LPFM stations. In an analog context, this rule is essential to assure that no one entity dominates the spectrum and excludes others from participating. In the analog context, this rule is needed. However, if you look at it from a multichannel digital perspective, the rule actually stifles diversity by limiting the resources that an LPFM station can use to provide more diverse programming into their local community without the need for additional stations especially in the crowded FM band, especially in situations where the programming may be available from another noncommercial LPFM station. Without this type of cooperation, this extra bandwidth may go unused, thus further reducing the utility of the medium of radio and underutilizing the capability of the HD Radio technology.

---

[63] 47 CFR §73.404(a).

[64] A list of these stations can be found at https://recnet.com/hd

2. Proposal

120. It is REC's position that it is in the public interest to consider a narrow relief of the restrictions of §73.860(e) through the carve-out of an exception where LPFM stations may enter into an operating agreement with a full-service FM station or another LPFM station for the sole purpose of rebroadcast of the LPFM station's audio on the portion of the other station's bandwidth that is not associated with their analog and HD-1 main digital streams. It is REC's position that such a carve-out would not jeopardize diversity as it would bestow no ability for the LPFM licensee to "control" the other station, only to use the HD-2+ audio stream that the other station is offering.[65] The main requirement would be is that the audio programming that is carried on the other station's HD-2+ stream must remain noncommercial educational in nature. LPFM stations would not be able to use this carve-out to establish an alternative commercial service on the HD-2+ of a commercial FM station.

3. Relevant policy factors

121. *Cost-benefit considerations* – There are definitely some successful LPFM stations out there and many are still growing. For those stations that can afford it, the ability for LPFM stations to lease HD capacity could provide a new sustaining revenue stream to full-service FM stations, while the LPFM station can expand their signal and potentially gain more underwriting revenue from listeners and from local businesses.

122. *Marketplace and technical changes* – LPFM stations are always looking for the ability to grow their audience through expansion. This is evidenced in the many inquiries that REC receives regarding LPFM stations desiring more power, FM translators and FM boosters. It is REC's position that this ability for LPFM stations to lease the HD capacity of another station would help the LPFM station expand their reach without jeopardizing local ownership diversity.

J. Commonly owned FM translator and booster stations

Change Type	Rule section(s) affected):
Change	73.860

1. Overview

a. Location of FM translator and booster stations

123. Current rules require that FM translators and boosters that are commonly owned by LPFM stations must meet all of the following:

- For FM translators, the 60 dBu contour of the commonly owned LPFM station must overlap the 60 dBu contour of the LPFM translator, even if that overlap is slight.
- For FM boosters, the 60 dBu contour of the commonly owned LPFM booster must remain completely inside of the 60 dBu contour of the LPFM station. (This is consistent with the booster rules for full-service stations.)
- For FM translators, the commonly owned translator must rebroadcast the LPFM station's main analog (or HD1) audio program and not an HD subchannel (HD2, HD3 or HD4).

[65] Our reference to the term "HD-2+" is to indicate an IBOC audio stream other than the digital FM station's analog or HD-1 stream. Depending on the operating mode used, this could mean HD-2 through HD-8.

- For FM translators, the translator must receive the LPFM station's signal over the air and cannot use the internet, microwave or any other alternative method of feeding the translator (including from another commonly owned LPFM translator in a "daisy chain").
- For both FM translators and boosters, the transmitting antenna must be located within 20 miles (10 miles for markets 1-50) of either the LPFM transmitting antenna or the reference coordinates for the LPFM community of license.

124. There are very few FM translators that are commonly owned by LPFM stations and there are a few boosters, mainly in places like Southern California where because of the terrain, "foothill effect" causes significantly large service contours and intervening terrain between the transmitter site and some listening areas.

125. The rules that require contour overlap between the LPFM and the translator are restrictive as it does not take into account that the translator may have to use a directional antenna. It also does not take into account that it may be in the public interest for the translator to be slightly further away as long as the translator can receive the LPFM station over the air.

126. The rule that requires LPFM translators to be fed directly from the LPFM station itself and not through another translator (commonly owned or not) does not take into consideration the geography that some communities may have. It is our position that LPFM stations should have the most flexibility possible, especially in the case of Tribal stations.

127. The outer distance restriction on LPFM boosters (10 or 20 miles) fails to take foothill effect into account.[66] The LPFM stations that are operating boosters are mainly in foothill effect situations where their 60 dBu service contours are significantly large and therefore must be protected by other secondary services.[67]

b. Ownership cap on FM translators and FM boosters

128. LPFM stations are currently restricted to the common ownership of two FM translator stations; two FM booster stations; or one FM translator station and one FM booster station.[68] While we would still support a maximum distance requirement for FM translators (which we support as 20 miles, regardless of market) and we have also supported a **deletion** of the distance requirement for FM boosters, it is REC's position that the additional hurdle of an ownership cap on these facilities is arbitrary.

129. An ownership cap in FM boosters is not in the public interest as it fails to look at unique situations, such as canyons and other areas where the primary signal may not reach, especially in foothill effect situations. In addition, a low ownership cap on FM boosters would foreclose on LPFM stations being able to take advantage of current technologies, such as geo-targeted booster stations and potential new technology that is being worked on, such as HD-only boosters. We do recognize that the Commission has already determined that for full-service FM stations, there should be an ownership cap of 25 FM booster stations in order to address Section 5 of the LCRA. While it is very unlikely that an LPFM station, even

---

[66] "Foothill Effect" is a term coined by REC Networks. It refers to situations where a the location of an antenna is situated in a situation where the heights above average terrain in one direction are considerably higher and in the other direction, they are considerably lower. As a result, in the LPFM context, the overall average HAAT is 30 meters or less, thus authorizing a full 100 or 250 watts. This would create a much larger than average 60 dBu service contour in the direction where the HAATs are higher compared to the standard 5.6/7.1 kilometer service contour distance.

[67] KWSV-LP, Simi Valley, California; KQLH-LP, Yucaipa, California and KBUU-LP, Malibu, California.

[68] 47 CFR §73.860(b).

those with the largest service contours caused by foothill effect would ever reach that many boosters, the current "second level" restriction of two is insufficient.

130. For FM translator stations, we note that the non fill-in rules normally apply for these facilities and in addition, the rule limiting LPFM commonly owned translators to only rebroadcasting the analog/HD-1 audio stream and other FM translator rules that prohibit two FM translators serving generally the same area with the same programming stream would naturally limit the number of FM translators that an LPFM station can actually control.

2. Proposal

131. REC proposes that for FM translator stations commonly owned by LPFM entities, that the requirement that there must be a 60 dBu overlap between the primary station and the commonly owned FM translator be removed. Despite that, we are not proposing to change the rules to require FM translators commonly owned by LPFM entities to be able to receive the input signal over the air as we do not support using alternate delivery for other non-fill in translators. We will, however, propose that the requirement that the commonly owned FM translator receive the LPFM station directly as opposed from another "daisy chained" FM translator be removed as this would remove a burden on the LPFM and would allow the LPFM to better serve their local community.

132. REC also proposes that the Commission **delete** additional burdensome requirements that commonly-owned FM booster stations be located within 10 or 20 miles of the transmitting antenna while extending the FM translator maximum distance to 20 miles, regardless of market size, consistent with our other proposals that eliminates the distinction of the top 50 market areas. The distance limitation on FM boosters is unnecessary as the location of a booster is naturally controlled through the boundaries of the LPFM station's 60 dBu service contour.[69]

133. REC also proposes that the Commission **delete** the ownership caps on FM translator stations and to apply the full-service 25-station cap for FM booster stations that are commonly owned by LPFM stations. These changes will give LPFM stations the ability to provide services, including emergency information, tailored to their area's specific geography and topography.

3. Relevant policy factors

134. *Barrier to entry* – The arbitrary requirements that commonly-owned FM translator and FM booster stations must remain within 10 or 20 miles of the LPFM station provide an unnecessary barrier for LPFM stations to properly serve the communities within their service contour. The proposed retained constraints such as the ability to receive the primary station or a daisy-chained translator over the air for FM translators and in the case of FM boosters, the presence of full contour overlap is sufficient to constrain the location of commonly owned FM translator and booster stations.

135. The current 10 mile policy, while effective if LPFM was truly to be focused on deep urban neighborhoods, which never transpired due to the enactment of the RBPA and the subsequent FM translator auctions 83, 99 and 100 as well as due to other activities related to AM Revitalization, is now seen as discriminatory towards those organizations that are in suburban and rural areas of counties that are considered by Nielsen Audio as being in a top-50 market. This prevents these organizations, that may be

[69] REC does find that the requirement to limit FM translators commonly owned by LPFM entities to only rebroadcast the analog or HD-1 audio stream to continue to be in the public interest in the interest of maintaining the integrity of the LPFM service and is not proposing any change to this regulation.

more spread out, but still local from having an opportunity at the LPFM service. Removing the 10 mile policy and replacing it with a 20 mile policy across the board would address this barrier to entry.

136. *Marketplace and technical changes* – With over 20 years of history of licensed operation, LPFM stations have determined that not all service areas are created equal. With the increase in translators and full-service FM stations, more FM translators are utilizing directional antennas to assure protection to other facilities and to better focus on specific coverage areas. This may result in FM translators not overlapping contours with the LPFM station. The contour overlap requirement is unnecessary as there remains requirements that the FM translator must either receive the directly over the air or as we propose, able to "daisy chain" off another FM translator. For FM booster stations, the siting of the facility is already controlled as the 60 dBu contour of the FM booster must be completely encompassed by the 60 dBu contour of the primary (LPFM) station.

137. With the availability of geo-targeted program originating boosters and new technology on the horizon, such as the future potential for HD-only booster stations, these opportunities should not be foreclosed on LPFM stations. We do note that it was an LPFM station, KBUU-LP, that was one of the first FM stations (either full-service or low-power) that had successfully deployed full HD Radio on an FM booster.

138. *Other relevant considerations* – §73.860(b)(3) duplicates requirements that are described in §§74.1231(b) and 74.1231(i). It is in the best interest of government efficiency that regulations are not duplicated in this fashion.

III. NONCOMMERCIAL EDUCATIONAL FM BROADCAST STATIONS

139. In addition to LPFM, REC has a very strong presence and constituency in the full-service noncommercial educational (NCE) FM broadcast station space, especially among stations that are not members of National Public Radio ("NPR"). Throughout the country, there are hundreds of secular, community radio stations that are not affiliated with NPR. Many stations are members of the National Federation of Community Broadcasters ("NFCB"). In addition, there are thousands of faith-based NCE-FM broadcast stations across the Commission's jurisdiction. Some entities that once had LPFM holdings were successful in the 2007 and 2021 NCE Filing Windows to "graduate" their station from LPFM to full-service. All of these NCE-FM stations are important members of REC's constituency.

A. De-reservation of NCE FM allotments

Change Type	Rule section(s) affected):
Change	73.513

140. Channels 201 through 220 (88.1~91.9 MHz, "reserved band") are reserved for NCE FM broadcast stations.[70] In addition to the 20 reserved channels, reservations can also be made on Channels 221 through 300 (92.1~107.9 MHz) through the rulemaking process upon a showing that no reserved band channels are available and the proposed station can provide first or second noncommercial educational radio service to 2,000 or more persons who would constitute 10% of the population within the proposed allocation's 60 dBu service contour or that no reserved channel could be used without causing prohibited interference to TV channel 6 stations.[71]

[70] 47 CFR §73.501(a).
[71] 47 CFR §73.202(a)(1).

141. The most common need for these reservations was due to no reserved band FM channels being available without causing interference to TV Channel 6. This was from before the transition from analog TV to DTV. Currently, there are only 9 full-service TV stations operating on Channel 6 including no station west of Ensign, Kansas. Based on that and the outcome of the 2021 NCE FM Filing Window, the Media Bureau adopted an *Order* that, on its own motion, de-reserved dozens of vacant reserved FM allotments and thus making them available in the future for a future auction.[72]

142. REC has received inquiries from multiple NCE stations that are on reserved channels between 221 and 300. In those queries, they are asking what the possibility would be to de-reserve the channel so they can potentially assign it to another entity for commercial purposes.

143. In the past, we had received informal non-binding opinions from staff that if such a de-reservation was to occur, it would mean that the allotment would have to become vacant and go to auction. REC does not agree with that position. The last major filing window for reserved allotments was in 2010, which involved 66 such allotments.[73] The stations that were granted from that window and did complete construction have been on the air as an NCE station for over 10 years now. For these stations, they had very much used these allotments as they were intended at the time. However, times have changed. With the elimination of most Channel 6 TV stations, more spectrum in the reserved band was made available. This was evident in the outcome of the 2021 NCE Filing Window where 1,281 applications were filed, resulting in 735 grants so far. It is our position that the need for many of these allotments to remain reserved is now obsolete and the public interest would favor returning the non-reserved band to some normalcy.

2. Proposal

144. REC proposes that the Commission enact regulations which permits an NCE FM licensee operating on a reserved channel in the non-reserved band to be able to file a *Petition for Rulemaking* to de-reserve the channel. The *Petition* must include a technical study that demonstrates that, for NCE stations in the reserved band, that there is at least two educational services that provide service to at least 2,000 persons and comprising of at least 10 percent of the population of the petitioning station. In addition, in order to de-reserve a channel, the NCE FM station would have had to operate for a minimum of 10 years, exclusive of silent periods. And, if the Commission does not delete the §§73.525 protection requirements as we recommend elsewhere, the reference coordinates of the allotment must meet the minimum distance separation requirements in §73.525(a)(1), thus a showing of no affected TV Channel 6 stations.

145. It is our position that if the NCE station has been licensed on that allotment for at least 10 years, its beyond time that it can be viewed as an "end run" in order to avoid an auction. After 10 years, the channel has served its purpose to address a problem, which for many of these stations, no longer exists.

3. Relevant policy factors

146. *Marketplace and technology changes* – With the transition to DTV long completed, DTV stations have found that VHF low band Channels 2 through 6 are very undesirable, especially as the marketplace evolves further into ATSC-3. Over the past few years, we have seen many DTV stations file petitions to amend the table to replace their VHF low band channels with either VHF high band (Channels 7 through 13) or UHF channels. With less than 10 full-service TV stations on Channel 6 since the transition,

[72] *FM Table of Allotments, Various Locations*, Order, 37 FCC Rcd. 1216 (2022).
[73] There was another filing window in 2014 which involved two allotments. Both tentative selectees from that window never constructed their stations resulting in permit cancellation.

the chances of potential applicants qualifying for a reserved allotment, pursuant to §73.202(a)(1) are now greatly reduced.

147. We further note that there is a considerable market for over the air television receive antennas, especially as MVPDs continue to increase consumer costs including passing on ever-increasing per-subscriber retransmission and regional sports fees. Many of the antennas on the market are compact and sold behind drug store counters. These little antennas are designed strictly for UHF and exhibit very poor performance on VHF low band channels. We further note that there is only one "big four" network affiliate on Channel 6 (WPVI, ABC, Philadelphia).

148. *Barrier to entry* – REC views this issue as a barrier to entry because the existence of the reservation, especially in an area that is well served by other NCE stations, the area will continue to be adequate educational services available in the event that the allotment is de-reserved; a financially distressed NCE entity would be able to assign the station to a non-NCE (commercial) entity. This prevents a commercial entity, especially if they are a new entrant, from being able to purchase the station and operate it commercially, especially in light of sufficient educational service that will remain in the area.

149. *Changes in legal framework* – With the laws that were passed that mandated the conversion from analog TV to digital TV, this created the environment of a standard that favors UHF over the past standard which favored VHF low band spectrum.

B. Class D noncommercial educational stations

Change Type	Rule section(s) affected):
Change	73.506
DELETE	73.506, 73.512

1. Overview

150. Class D stations are the original "LPFM". For decades, Class D stations were used by high schools and small colleges to provide a low power facility with 10 watts of transmitter power output (TPO). The actual effective radiated power (ERP) would vary based on the gain of the antenna used. In 1978, the Commission discontinued and grandfathered the service in all areas except the state of Alaska, where Class D stations can still be obtained outside of a filing window.

151. After the grandfathering of the service in 1978, the Commission ordered all Class D stations, upon their next renewal to file an application to propose an alternate channel outside of the reserved band.[74] After that cycle of renewals was completed, the language of this renewal process remained in regulations. There are also references in §73.506 that Class D stations continue to operate with 10 watts TPO and references to both primary and secondary Class D stations in both §§73.506 and 73.512.

2. Proposal

152. The regulations for Class D stations is very stale and is well overdue a refresh. First, we propose to **delete** §73.506(a)(1) to remove references to "non-secondary" Class D stations. Second, we propose to amend §73.506(a)(2) to reflect that Class D stations may operate with a maximum of 99 watts ERP and a service contour not exceeding 5 kilometers rounded. Third, we propose to amend §73.506(a)(3)

[74] 47 CFR §73.512(a). (If stations were not able to find a viable non-reserved band channel and they were outside of the border coordination zones, they could propose operation on Channel 200 (87.9 MHz), or if no channel was still available, they could propose to operate on a reserved band channel that would cause the least preclusion to the establishment of new stations or increases in power by existing stations.)

to include a conforming edit to recognize FM service class C0 (C Zero). Finally, we propose to **delete** §73.512, subsections (a) and (b) as they are directly related to the post-1978 channel change and are not applicable at this time, 45 years later.

3. Relevant policy factors

153. *Other relevant considerations* – Regulatory language that has been obsolete for nearly 40 years remains lingering in Part 73 as all post-1978 renewals for Class D stations have been completed for decades. Remaining language needs to be updated to recognize the manner in which Class D stations remain authorized. A conforming edit is necessary to reflect an FM service class that was not reflected when it was originally established.

C. New local NCE FM stations in rural areas adjacent to urban areas

Change Type	Rule section(s) affected):
Add	73.516 (new)

1. Overview

154. There are many rural areas in the country that are denied access to lower power (250 watts or less) full-service NCE FM stations due to second or third-adjacent channel full-service stations on second and third-adjacent channels. The Commission has already recognized in several types of situations that it can be technically acceptable for "interfering" FM facilities to be on second and third-adjacent channels. In a *Petition for Rulemaking*, RM-11846, filed by REC, we get into greater detail on the public interest of allowing these rural communities that currently do not have their own local transmission service and would benefit from the ability to apply for overlapping second and third-adjacent channels where a showing of "interference" would only occur to less than a percent of the affected station's service contour and in no case, more than 3,000 persons.

2. Proposal

155. REC proposes that the Commission adopt a *Notice of Proposed Rulemaking* in consideration of RM-11846.

D. Point system factors – third tiebreaker

Change Type	Rule section(s) affected):
Change	73.7003

1. Overview

156. In MB Docket 19-3, at the request of the late Michael Couzens, the FCC added a third tie breaker criteria to the selection process for mutually exclusive full-service NCE applications. If there is a tie in points, the FCC looks first at the number of authorizations each applicant has, then it looks at the number of pending applications. The recently added third tie breaker takes into consideration whether the applicant lost in the point system in a previous window (such as the 2007 window). This rule was intended to help small single applicants from previous windows have some kind of priority in a future window.

157. In the 2021 window, a vulnerability of this rule was discovered as it was attempted by larger broadcasters who filed multiple applications in the previous window and had received grants on some applications but had not received a grant on one or more of those applications. We do not feel that this was Michael Couzens' intention with proposing this rule change.

2. Proposal

158. We are proposing to modify §73.7003(c)(3) to state that in order to invoke the rule, the applicant may have never had a previous grant in any previous NCE filing window.

159. We also propose to extend this rule to also take into account, applicants that were not successful in the previous windows as a result of fair distribution. The current rule is only invoked where fair distribution is not involved and the applicant lost as a result of a point system analysis.

E. Disqualified applicants in MX Groups

Change Type	Rule section(s) affected):
Change	Policy only.

1. Overview

160. When the FCC processes MX Groups, only the applicants that have the lead standing or score are considered tentative selectees and as a result, only those applicants are further checked to assure compliance with various administrative rules such as a valid corporate presence. No such checks are normally made to those applicants with insufficient scores. This can result in those applications being considered as part of the pledges and requirements of the winners of the MX Groups, even if those inferior applications were never qualified in the first place. In LPFM, this can impact whether the winning applicant will be subject to pledges for main studio and local program origination.

161. For example, in an LPFM setting. Let's say there are two applicants in the MX Group. One applicant has 5 points and the other has 4 points. The 4-point applicant is not a valid corporation. In today's setting, the 4-point applicant is not even reviewed for validity of the corporation. The 5 point applicant is granted and because the 4 point applicant, that is not even a corporation, is still considered in the full Commission review of the points and eventually dismissed, the 5 point applicant is subject to the main studio and local program origination pledge requirements. In our proposed scenario, the 4-point applicant will be determined, earlier in the process, to not be a valid corporation and therefore, would be dismissed. Once that dismissal is finalized, the 5 point applicant would be declared a singleton and would go to public notice as accepted for filing and eventually would be granted without any pledge obligations.

2. Proposal

162. We propose rules and policy changes where prior to the determination of points and threshold fair distribution status that staff review the administrative qualification of applicants including the review of any pleadings (informal objections) already filed. If it is determined that an applicant does not meet the basic qualification of being a NCE/LPFM applicant, that their application is dismissed prior to the Bureau analyzing the MX Group. This would mean that if an application is dismissed, there would be a 30 day period for reconsideration and if, after that 30 day period passes, no reconsideration is filed, the dismissal is finalized and then Staff can proceed with the analysis of fair distribution (in the case of NCE) and the eventual preparation of point determinations to be circulated to the full Commission.

163. We find such a policy to be fair to the winning applicant while still affording due process to those applicants who had their applications dismissed to challenge their dismissals. We acknowledge that such a method may delay the fair distribution and/or point determination made in an MX Group, but it does promote overall fairness to the winning applicants in the MX Groups to assure that they are not subject to any pledges or requirements that were caused by applications that should have not been filed in the first place.

IV. FM TRANSLATOR AND BOOSTER STATIONS

A. FM Translator Reform promotes fairness in future filing windows

Change Type	Rule section(s) affected):
Change	74.1201, 74.1231, 74.1232, 74.1233, 74.1235

1. Overview

164. In 2003, the Commission conducted Auction 83 in which over 10,000 applications for new construction permits for FM translators were filed.[75] The volume of applications that were filed by the same party in interest was identified as troublesome by the Commission.[76] In [year], the Commission would eventually announce that of the still ungranted construction permit applications, there would be a cap of 10 applications per attributable party that would be granted going forward from that time.[77]

165. In 2011, the LCRA was enacted. Section 5 of the LCRA stated in part that LPFM stations, FM translator stations and FM booster stations all be available and that "such decisions shall be made based on needs of the community."[78] As a result, the Commission put policies in place that: within 30x30 or 20x20 minute grids centered on reference coordinates, designated specific "channel points" that there was potential LPFM availability; markets were considered as "spectrum available" or "spectrum limited"; defined "channel floors" to determine the spectrum availability status; in "spectrum limited" markets, translator applicants must perform an anti-preclusion study to demonstrate that the proposed translator was not preventing any LPFM opportunities in those market grid areas; and there was an application cap of 50 applications within the market areas and 70 overall.[79] The Commission would eventually hold the Second Generation LPFM Filing Window in 2013 where 2,806 applications were filed, resulting in 1,576 application grants.

166. In 2022, after the conclusion of the 2021 NCE FM filing window, REC filed a *Petition for Rulemaking* that would call on the Commission to perform the first filing window for new FM translators in the reserved band since the Commission enacted the point system for comparing mutually exclusive applications for NCE facilities, modernized the definition of a fill-in NCE FM translator, added additional protections stemming from licensee behavior since their Auction 83 grants and to reinstitute a modified version of the methods enacted in the *Fourth Order*, replacing "channel floors" with a "spectrum availability score". This proposal went to public comment at the Commission as RM-11952.

2. Proposal

167. REC proposes that the Commission adopt a *Notice of Proposed Rulemaking* in consideration of RM-11952.

B. Determination of operating power for non-fill in FM translator stations

Change Type	Rule section(s) affected):
Change	74.1235

[75] [Auction 83 public notice] *("Auction 83 Notice*").
[76] [Public notice announcing the first resolution in the Auction 83 issue].
[77] *See Id.* at [###].
[78] LCRA [sec][sec] 5(a) and 5(b).
[79] *Creation of a Low Power Radio Service*, Fourth Report and Order, 27 FCC Rcd. 3364 (2012) ("*Fourth Order*") at 3376-3388.

1. Overview

168. Non-fill in translators are those where the 1 mV/m service contour of the primary station being rebroadcast is not fully encompassing the 1 mV.m service contour of the FM translator. Non-fill in translators are utilized by NCE entities such as statewide public radio providers and faith-based entities. For commercial stations, there are rules that require strict financial separation between the primary station and the licensee of the FM translator . Historically, non-fill in translators have been installed by city governments or taxing districts of remote, mainly mountainous communities in order to bring out of town FM radio service into their local communities. These situations are slowly becoming rarer in the commercial sector.

169. §74.1235(b) of the Commission's Rule state for FM translator stations not operating as "fill-in" stations, the ERP will be determined by determining the height above average terrain (HAAT) in 12 cardinal directions (radials); once those values are determined, determine the maximum effective radiated power (ERP) along each of those 12 radials; and if the FM translator is proposed to operate a directional antenna, the ERP cannot exceed the value shown for that HAAT level or if the antenna is proposed to be nondirectional, then the ERP associated with the highest of the 12 returned HAATs would be used.[80] This method is known as "maximum ERP" or MERP.

170. This method for calculating HAAT and the use of the tiered method of determining operating power is not consistent with other services such as full-service FM and LPFM which base the operating power based on HAAT determined using 8 radials and using a reference distance for the service contour. For example, the LP100 service contour distance is 5.6 kilometers and the full-service Class A distance is 28.3 kilometers. For FM translators, the tables in §74.1235(b) are based on 250 watts ERP at 32 meters HAAT in areas east of the Mississippi River as well in California south of 40 degrees north latitude, Puerto Rico and the U.S. Virgin Islands for a service contour distance of 7.3 kilometers; and 250 watts ERP at 107 meters HAAT in all other areas for a service contour distance of 13.3 kilometers.

171. In addition, these services use the overall average of all 8 radials for both directional and nondirectional purposes in contrast to FM translators where the ERP in 12 different directions are calculated separately and nondirectional facilities default to the lowest of the calculations. Finally, we note that despite the HAAT, the maximum ERP for non-fill in translators will never be lower than 10 watts.

2. Proposal

172. REC proposes to change the method for which the HAAT and ERP for non-fill in translators are calculated. REC proposes to **delete** the current 12 radial MERP concept and replace it with the methods described in §73.313. For stations located east of the Mississippi River, in California south of 40 degrees north latitude, in Puerto Rico and in the U.S. Virgin Islands, the maximum ERP in all directions would be based on a 7.3 kilometer service contour (250 watts at 32 meters HAAT) and in all other areas, would be based on a 13.3 kilometer service contour (250 watts at 107 meters HAAT).

173. REC proposes to maintain the 10-watt minimum. This means any non-fill in FM translator located east of the Mississippi River, in California south of 40 degrees north, in Puerto Rico or in the U.S. Virgin Islands with a HAAT of 141 meters or greater; or elsewhere, with a HAAT of 541 meters or greater, the maximum ERP will be 10 watts.

---

[80] 47 CFR §74.1235(b).

C. FM translator protection of LPFM stations

Change Type	Rule section(s) affected):
Change	74.1204

1. Overview

174. §74.1204(a)(4) simply states that FM translators must provide contour protection to LPFM stations on co-channel and first-adjacent channels. §74.1204(a)(5) is a note to this chart that states:

> For the purposes of determining overlap pursuant to this paragraph, LP100 stations, LPFM applications, and LPFM permits that have not yet been licensed must be considered as operating with the maximum permitted facilities. All LPFM TIS stations must be protected on the basis of a nondirectional antenna.

175. The way that this note is written is confusing or otherwise redundant. The wording sould suggest that all LP100 (LPFM) stations are considered as operating with maximum permitted facilities, yet then it also adds information on unbuilt facilities (applications and construction permits) along the same line. LPFM stations that operate at facilities less than the maximum for the HAAT are normally doing so because of a second-adjacent channel waiver and that the reduced power is necessary for the antenna chosen to prevent interference reaching nearby occupied structures. If that station was to get a different antenna at the same radiation center height, that antenna may be designed in a way to prevent the interference to those occupied structures thus meaning that the LPFM could operate at their maximum facility.

176. LPFM stations that operate directional antennas mainly do so because of similar second-adjacent channel issues previously mentioned. This includes the possibility that a different non-directional antenna could be used at the same radiation center to prevent the interference. This Commission recognized this in the *Sixth Order* and there, it stated that LPFM stations operating directional antennas for the purpose of second-adjacent channel waivers must be protected by FM translators as if they are nondirectional. In the case of directional antennas for second-adjacent waivers or for travelers information service purposes, as stated in §73.816(d)(3)(i), the construction permit application is considered as nondirectional and no field values are entered. In other cases where directional antennas are used, such as for international agreements, protection of TV Channel 6 stations or for other purposes, the application must be marked as directional and field values used.

2. Proposal

177. We are proposing that §74.1204(a)(5) be amended to recognize all LPFM stations operating at their full ERP, even though they may be currently reduced due to second-adjacent waivers, consistent with the note in the *Sixth Order*. We also need to recognize that LPFM stations operating as travelers information stations or solely for second-adjacent waivers must always be recognized as nondirectional in respect to protection from FM translators.

D. Independent program origination

Change Type	Rule section(s) affected):
Change	74.1231

1. Overview

178. REC has heard from our commercial constituents as well as reviewed other comments that have been made in public forums from commercial broadcasters that have AM stations with FM translators

about the desire to eliminate their AM station while retaining the FM translator on a primary basis for the purpose of program origination.

179. REC cannot support such a change as it would: (1) violate §307 of the Communications Act as the FM translator facility would be unlikely to provide community coverage within the station's community of license and; (2) would violate §5 of the LCRA, which states that FM translators must remain secondary and equal in status.

180. REC understands the issue that smaller AM stations face as AM listening is on the decline, the costs for electricity, the environmental concerns and the potential resale value of the land associated with the antenna system.

181. It is our position that the AM station must be retained in order to use the translator. However, we have heard about alternatives to the use of tall towers that take up excessive land due to ground systems and potential alternatives, such as the HEBA type antennas which are currently being experimented with. In order to satisfy §307, the 5 mV/m must cover at least 50 percent of the community of license's corporate limit land area or population.[81]

182. We also find it appropriate for AM stations with FM translators to attempt to gain other revenue sources. One novel concept that we have looked at was the ability for FM translators that are commonly owned by the AM station that is being carried on the translator to be authorized to use hybrid in band on channel (IBOC) digital audio broadcasting and to have the ability to originate programming on the additional bandwidth (HD2, HD3 and HD4) while maintaining the analog and HD1 program streams to rebroadcast the primary AM station.

2. Proposal

183. Amend §74.1231 to permit FM translators that are commonly owned by a primary AM station to be able to operate using hybrid IBOC digital and to use their excess HD bandwidth (HD2, HD3 and HD4) for the purposes of broadcasting independent programming. The HD stations would be identified using the AM station's call sign with the appropriate HD suffix. The AM station would be responsible for any violations arising from the programming on that excessive bandwidth.

V. PROPOSALS INVOLVING MORE THAN ONE BROADCAST SERVICE

A. Reserved band protections to TV Channel 6 broadcast stations

Change Type	Rule section(s) affected):
Change	73.525, 73.825, 74.1205

1. Overview

184. §§ 73.525, 73.825 and 74.1205 address FM facilities operating in the reserved band Channels 201~220 (88.1~91.9 MHz) and protections to Channel 6 TV broadcast stations and in the case of secondary services, protections to LPTV, Class A and TV translator stations on Channel 6.

185. The current rules for these services were originally enacted in 1985. At the time, it was to address potential interference to analog television receivers manufactured in the 1960s and 1970s with mechanical tuners.

[81] 47 CFR §73.24(i).

186. It is REC's position that due to the transition from analog to DTV has mooted all of the concerns in the 1985 *Order* that established these reserved FM band to TV Channel 6 protection requirements. In this modern day, we do not see any reason why an FM station on Channel 220 technically needs to protect a Channel 6 facility. With that, it is appropriate that the protections that were once needed in 1985 are now obsolete.

187. Analog TV Channel 6 had an aural carrier on 87.75 MHz. Therefore, there was no significant emissions higher than 87.85 MHz. This did provide some space between Channel 6 and FM Channel 201. DTV (either ATSC1 or ATSC3) is different. The emission mask for a DTV signal reaches very close to the 88 MHz band edge before sharply attenuating down. Likewise, without substantial testing, we must, out of an abundance of caution maintain protections to Channel 6 from FM facilities operating on Channel 201 (88.1), the adjacent channel.

2. Proposal

188. REC proposes that the Commission **delete** references in §§ 73.525, 73.825 and 74.1205 that identify Channels 202~220 (88.3~91.9 MHz) in terms of those channels affecting TV Channel 6 operations while keeping the existing protections to Channel 6 in respect to Channel 201.

B. Modification for channel change in the secondary services

Change Type	**Rule section(s) affected):**
Change	73.870, 73.871, 74.1233

1. Overview

189. Under the current rules for both FM translators and LPFM stations, a "minor" channel change is considered to a first, second or third-adjacent channel or to an intermediate frequency channel. In addition, for FM translators, a minor change can also include a change to another channel in the same "band" upon a technical showing that interference is taking place. In LPFM, a minor change can include a change to another channel, regardless of band upon a technical showing that *reduced* interference is taking place. The Media Bureau is normally expecting a contour study to demonstrate interference.

190. REC does question whether the additional hurdles to change to a non-adjacent channel are even still necessary in a modern deregulatory and electronic filing environment. We further note that contours do not necessarily reflect the reality of interference in certain situations involving varying terrain, where the actual arriving field strengths may be much higher than what is predicted in a contour study. We note that contour studies only consider the terrain within 2 to 10 miles of the station when calculating the distance to a specific contour.

2. Proposal

191. Amend §§73.870, 73.871 and 74.1233 to **delete** limitations on the channels that a minor change can be made to as well as the requirements to demonstrate interference (FM translators) or reduced interference (LPFM).

C. Redefining "interference" on second and third-adjacent channels

Change Type	**Rule section(s) affected):**
Change	73.807, 74.1204

1. Overview

192. Full-service FM and FM translator stations are normally required to protect other facilities that are on the same, first, second or third-adjacent as well as on intermediate frequency channels. Modern radio receivers which use phase locked loop (PLL) technology are much more selective and are better able to discriminate against arriving adjacent channel signals. Therefore, we need to look at modernizing the Commission policies regarding the protection of stations on second and third-adjacent channels.

193. As an initial matter, REC opposes the elimination of second and third-adjacent channels by full-service FM broadcast stations (both commercial and NCE). This is not because of a technical reason, but instead, such deregulation would be inconsistent with the Congress' intention in §307(b) of the Communications Act which calls for fair distribution of broadcast facilities across the several states. Likewise, with the exceptions we mentioned in our rulemaking petition for smaller NCE stations in unserved communities of license, we do not support the use of any kind of a redefinition of interference in respect to full-service stations. Therefore, we will focus on FM translators, LPFM and NCE Class D stations.

194. In different broadcast services, the Commission had established different definitions of "interference" and what, if any, affected population would be considered as "acceptable". While the Commission accepts zero impacted population for FM translators and had previously interpreted interference in the LCRA has zero impacted population for LPFM stations (post-LCRA) using the *Living Way* method[82], §73.525 of the Commission's Rules permits a "predicted interference area" of up to 3,000 persons in the event that there is overlap between the FM station's interfering contour and the protected contour of a TV Channel 6 station.[83] This tolerance can be increased upon the installation of filters.[84] In digital television, interference up to 0.5 percent of the population served by the "victim" digital television station is tolerated.[85] Prior to the LCRA being enacted, when the Commission adopted an interim policy for second-adjacent channel short-spacing, the Commission determined that the loss of an LPFM service outweighed a small amount of predicted interference (overlap) to a full-service FM station from a public interest perspective.[86]

195. From a FM Translator and Class D perspective, we see no issues with the Commission creating an actual codified definition of second and third-adjacent channel interference which permits for *de minimis* penetration of occupied structures where the impacted population would be 0.2 percent (two tenths of one percent) of the population of the overlapped second or third-adjacent channel station, but no more than 3,000 persons.

196. For LPFM, Congress never specifically defined "interference to any radio service" in the language of the law.[87] It is very possible that the LCRA could be interpreted to define "interference to any radio service" to mean the 0.2 percent or no more than 3,000 persons as defined above. Likewise, if the

---

[82] *See Living Way Ministries*, Memorandum Opinion and Order, 17 FCC 17054 (2002), recon. denied 23 FCC Rcd. 15070 (2008) ("Living Way"). *See also See Creation of a Low Power Radio Service*, Sixth Report and Order, 27 FCC Rcd. 15402 (2012).
[83] 47 C.F.R. § 73.525(c).
[84] 47 C.F.R. § 73.525(c)(2).
[85] 47 C.F.R. § 73.616(d).
[86] See *Creation of a Low Power Radio Service*, Third Report and Order, 22 FCC Rcd. 21912 (2007) ("Third Order") at 21939-21940. See also Davis Community Television, BPL-20080509ADB (STA granted for interim second-adjacent channel waiver operation despite a second-adjacent channel overlap with KUIC, Vacaville, California and within the area where a U/D ratio of greater than 40 dB existed, there was a population of 1,870 persons (0.2% of the population of KUIC's coverage contour), an STA was granted to permit LPFM operation pending final outcome upon action in the Second Further Notice proposals.)
[87] See also LCRA §3(b)(2)(A).

Commission does consider that there is still a statutory need to keep the LPFM population at zero, this should not preclude this proposed rule change from being applicable to FM translator and Class D FM stations.

2. Proposal

197. Amend §§ 73.509 and 74.1204 to permit the waiver of second and third-adjacent channel overlap as well as amend §73.807 to permit the waiver of second-adjacent channel required distance separation upon a technical showing that the population within the interference area where there is a undesired to desired ratio of more than 40 dB is less 0.2 percent of the affected station's total service contour and no more than 3,000 persons.

E. Modernizing the handling of simultaneously filed modification applications

Change Type	Rule section(s) affected):
Change	73.3573, 74.1233

1. Overview

198. The current regulations regarding the filing of modification applications vary between full-service broadcasting; FM translators and booster stations; and LPFM stations. For full-service, FM translators and FM boosters, the rule states that all applications filed the same day are considered as simultaneously filed and mutually exclusive where for LPFM, it states that applications will be processed in the order tendered. In MB Docket 24-626, the Commission is proposing to make the rule for LPFM to be harmonized with full-service broadcasting, FM translator and FM booster stations.

199. The current rule for full-service broadcasting, FM translator and FM booster stations was originally created in an era when applications were filed on paper and either submitted by mail, courier or at the filing window at the Office of the Secretary and fee payments were handled by a third-party bank. The LPFM rule was created during the time when the Commission was converting to electronic filing through the Centralized Database System (CDBS). During a portion of the First Generation LPFM filing window series, the Commission did accept applications for LPFM construction permits either electronically or by paper. By the time that LPFM modification applications needed to be filed, the agency was entirely on electronic filing for these applications. In CDBS, electronically filed applications were accepted by the system and were actually held until just after midnight and then all of the applications were processed through the system as a batch job and then were able to be viewed in the now former CDBS Public View.

200. In 2014, applications for television services started to transition to the Licensing Management System (LMS), the next generation of electronic filing systems. Radio broadcasting would start using LMS for renewal and other administrative applications starting in 2019. FM applications involving engineering would transition to LMS later in 2019 and AM radio would eventually transition in 2023.

201. Unlike CDBS, modification applications in LMS would be displayed to the public once the application was submitted, unlike its CDBS predecessor which applications would not be visible until the next day.

202. In the interest of modernizing processes and government efficiency, it can be determined that the current regulation for LPFM actually better reflects how FCC electronic filing systems work. In fact, the regulations used today for full-service, FM translator and FM booster applications can create a situation where, when the second applicant has full knowledge of the other (first) application, could create

a situation where the second applicant could intentionally file a mutually exclusive application to "torpedo" the first application. In LPFM, this happened in the *Electron Benders* case. In *Electron Benders*, a modification for an LPFM station was filed to change channels. Subsequently, a second application was filed on top of the first application causing mutual exclusivity. After a round of pleadings, the Media Bureau failed to follow the LPFM specific rule and instead, applied the full-service, *et. al*. regulation. The Commission would follow this up with the proposed rule change in MB Docket 24-626. In *Electron Benders*, the proponent for the first application argued that because both applications were for LPFM, there would be no dispute as to which rule would apply.

203. It is REC's position that the current regulation that applies to LPFM stations better reflects the current systematic method of how modification applications are handled in LMS.

2. Proposal

204. REC first proposes that the Commission not move forward with the proposed change to the LPFM regulation on this matter and instead, to amend the regulation for full-service broadcasting, FM translator and booster, Class A TV and secondary TV services to coincide with the LPFM regulation and consider each application to be processed in the order of tender and in the case of feeable applications, by the date of fee payment and then in the order of tender.

F. Minor modification of facility location for FM translators and LPFM

Change Type	Rule section(s) affected):
Change	73.870, 74.1233

1. Overview

205. §74.1233(a)(1)(i) states that a site move for an FM translator must result in the 1 mV/m (60 dBu) service contour of the current facility to overlap with the 1 mV/m service contour of the proposed facility.[88] Channel changes are limited to first, second, third-adjacent or intermediate frequency channel, or upon a technical showing of interference, to any channel.[89]

206. The Media Bureau has also granted waivers of the site move overlap regulation under the *Mattoon* doctrine. The *Mattoon* waiver was limited to FM translators that were intended to rebroadcast AM stations and committed to do so for the next four years and the proposed facility does not preclude future LPFM opportunities based on the "channel point" criteria from the *Fourth Order*.

207. Full-service FM rules permit site moves with a change of community of license as long as the proposed facility is mutually exclusive with the current facility.[90]

208. LPFM stations can be moved up to either 11.2 km or, like with FM translators, if the 1 mV/m (60 dBu) contour of the current facility overlaps with the 1 mV/m contour of the proposed facility.[91]

209. Sometimes, a station's need may change and it may be burdensome to stations if they are limited on moves. At the same time, we must respect the concept of major changes.

2. Proposal

[88] 47 CFR §74.1233(a)(1)(i)(B).
[89] 47 CFR §74.1233(a)(1)(i)(A).
[90] 47 CFR §73.1690(b)(9).
[91] 47 CFR §73.870(a).

210. REC proposes an across-the-board change to minor site moves in the secondary services. Specifically we propose that FM translators and LPFM stations may be able to make a site moves if there is mutual exclusivity between the old and new facility. Permitted, non-adjacent channel changes in both FM translators and LPFM for interference would still be honored with the replacement channel being considered as "co-channel" for the purpose of determining mutual exclusivity. For LPFM, this would mean extending the permitted distance for a site move to 23.5 kilometers (14.6 miles). We note that for LPFM site moves, the permittee or licensee must remain "local" in respect to §73.853(b). As REC is proposing to standardize the area where localism is determined to 20 miles at any location, it is still possible that a 14.5 mile move would still keep the station "local" for those purposes.

G. Secondary grants

Change Type	Rule section(s) affected):
Change	Policy only.

211. In the MX handling process, the FCC currently does not have a policy to give "secondary grants". A secondary grant is one where an applicant is not directly mutually exclusive to the winning applicant(s) but because of other applicants is brought into the MX Group. This is more likely to happen in the NCE process as stations have much larger service contours and in some cases, MX Groups could extend across several states.

212. By not being able to grant applicants that have been "orphaned" in the process due to not being directly MX with the winning applicant(s), the action of arbitrarily dismissing them out of administrative convenience is not in the public interest as it would reduce the number of potential stations and leave spare spectrum that may not be used for several years when another filing window was to come along, thus being an inefficient use of spectrum.

2. Proposal

213. Propose to change rules and/or policy to identify and handle applications, as detailed in Appendix B.

VI. INERNATIONAL BROADCAST STATIONS

A. Reaching domestic audiences

Change Type	Rule section(s) affected):
DELETE	73.731
Change	73.753

1. Overview

214. Currently there are a small number of international broadcast stations operating on high frequency (HF) bands, also commonly known as the shortwave bands. The current regulations for international broadcast stations date back to before the cold war era and require that broadcast stations operating in the HF bands must be specifically directed for broadcast to countries outside of the United States. This is done by international broadcast stations specifying which International Telecommunications Union (ITU) zones the station is targeting and through the use of directional antennas to assure the station reaches those target areas based on the band used and the time of the day that broadcasting takes place.

215. The reality is that while international broadcast stations are supposed to be targeting the areas outside of the United States, many of these stations also have a significant number of domestic listeners. REC views these shortwave stations as opportunities that provide citizen's access to spectrum and promotes our "more choices more voices" objectives. REC does view that there is an opportunity for domestic shortwave broadcasting and in the case of the 11-meter band, an opportunity for more localized domestic broadcasting using stations with significantly lower power. The use of the 11-meter band has already been endorsed by the ITU for domestic broadcasting using Digital Radio Mondiale ("DRM").[92]

216. The use of the 11-meter band can be an enhancement to the existing LPFM broadcast service that can be used for specialty audiences and provide additional community radio services in a manner that does not utilize resources from the traditional AM and FM broadcast bands.

2. Proposals

217. REC proposes to **delete** §73.731 as it related to the limitations on international service and to amend §73.753 to permit the use of nondirectional antennas in connection with lower powered operation in the 11-meter band.

B. Minimum operating power

Change Type	Rule section(s) affected):
Change	73.751

1. Overview

218. Currently, International Broadcast Stations must operate with a minimum of 50 kW if operating analog (double side band or single side band) or a minimum of 10 kW if operating digital.

219. With our proposed additional application of domestic broadcasting in the high frequency shortwave broadcasting service, there is a need for lower minimums, especially for the local service in the 11-meter band.

2. Proposal

220. Amend §73.751 to reduce minimum power to 5 kW for double side band and single side band and 1 kW for digital operation, except in the 11-meter band where minimum operation would be 0.1 kW for double side band and single side band operation and 0.02 kW for digital operation.

C. Nature of service; commercial or sponsored programs

Change Type	Rule section(s) affected):
DELETE	73.788

1. Overview

221. §73.788 places very specific requirements on speech during programming and in commercials. If challenged in the future, this regulation may not be able to pass constitutional muster, even in a more conservative culture. These rules appear to have roots from the cold war, including the interesting reference to "chain broadcasting'. With our proposed change in scope where the HF service would embrace

[92] ITU-R BS.2251 (2012).

domestic operation, we find this section no longer necessary. Also with such a change, it would be appropriate to change the name of the broadcast service.

2. Proposal

222. REC proposes to change the title of Part 73, Subpart F to "High Frequency Broadcast Stations". In addition, REC proposes to **delete** §73.788.

VII. AMATEUR RADIO SERVICE

A. General policy

223. REC's support for our "citizens access to spectrum" objective extends beyond just broadcasting to other spectrum services at the Commission. We acknowledge the multitudes of discussions that have taken place on the topic of the Amateur Radio Service ("ARS") in the ham radio community, through social media, through YouTube videos and on many of the early-filed comments in this proceeding.

224. Our basic position on the ARS is that it is an international radio service with a considerable number of bands within the high frequency ("HF") and VHF spectrum that currently enjoy primary allocations as well as a good number of secondary allocations across the entire spectrum. In many cases, the secondary allocations are shared with Government radio services coordinated by the National Telecommunications and Information Administration ("NTIA").

225. The need for licensing and the use of operator testing that follows a particular syllabus is mandated in Article 25, Section 3(2) of the ITU Radio Regulations.[93] Therefore, the ARS must always have a testing aspect to it and therefore, any concept of a "test-free amateur license" would run contrary to international treaty and as such, REC must oppose any attempt to remove testing from any class of license.

226. While the ARS is portrayed as an emergency communications service as heavily promoted by a national association, REC agrees that emergency communications is only one aspect of the ARS "hobby". ARS is primarily about training and experimentation or as we casually say here, "doink with spectrum". A part of the ARS is to learn about radio theory and the basics of regulation. The competency gained through this training is reflected in the three current classes of licenses in the ARS.

227. After some deep consideration on the issue, it is REC's position that as a part of this learning process, that the Commission retain its incentive licensing system with the three operator classes that currently exist, Technician, General and Amateur Extra with no changes to the classes, class names or to the spectrum and mode privileges.

B. Formal recognition of HAREC

Change Type	Rule section(s) affected):
DELETE	97.505

1. Overview

228. The Harmonized Amateur Radio Examination Certificate ("HAREC") is an internationally accepted certification that was adopted by the European Conference of Postal and Telecommunications

[93] ITU-R RR Art. 25 §3(2) (2024) ("*Administrations shall verify the operational and technical qualifications of any person wishing to operate an amateur station. Guidance for standards of competence may be found in the most recent version of Recommendation ITU-R M.1544.*").

Administrations ("CEPT") in Recommendation T/R 61-02.[94] The HAREC document demonstrates proof of successfully passing an amateur radio examination which complies with a specific Examination Syllabus. CEPT Recommendation T/R 61-01 provides for temporary operating privileges for United States amateur operators that hold an Advanced or Amateur Extra class license.[95] Currently, the United States recognizes holders of an amateur radio license issued by a CEPT administration to be the equivalent of Amateur Extra class for the purpose of temporary operating privileges.[96]

229. Within the various CEPT nations, the HAREC can be used to obtain a national amateur radio license for another CEPT nation. In addition to the European nations, the HAREC can also be used to obtain a national license in Australia, Hong Kong, Israel and South Africa.[97] It is REC's position that the United States should also embrace CEPT Recommendation T/R 61-02 and issue the HAREC to all amateur licensees that hold an Advanced or Amateur Extra class license and likewise, bestow the ability for foreign nationals to obtain an Amateur Extra Class license upon evidence of a HAREC.

2. Proposal

230. Amend §97.505 to recognize the HAREC as examination credit for Elements 2, 3 and 4 thus permitting these persons to obtain a full Amateur Extra class license. In turn, the Commission shall issue the HAREC to all United States licensed ARS operators that hold either the Advanced or Amateur Extra class license.

VIII. HARMONIZATION OF SHORT ANGE DEVICES IN THE BROADCAST BANDS

Change Type	Rule section(s) affected):
Change	15.219, 15.221, 15.239

231. Sections 15.219, 15.221 and 15.239 address the use of intentional radiators operating the AM and FM broadcast bands.[98] While many of these devices are used as consumer purposes such as extending the audio from a user's wireless device to an automotive sound system through its FM radio receiver for their own personal use, other devices that are covered by these sections can be used for a form of "nanobroadcasting" to reach other persons. Such applications include special event broadcasting, foreign language simulcast, college student broadcasting, church parking lot broadcasting, holiday displays and neighborhood broadcasting. Devices marketed and used in the United States must be certified through a Telecommunication Certification Body ("TCB").

232. Canada has their own standard for such short-range devices which offers a slightly improved performance compared to its United States counterpart. The Canadian standards are published in Broadcasting Equipment Technical Standard 1 ("BETS-1").[99]

233. For the sake of international harmonization and to reduce the burden on equipment manufacturers wishing to market certain types of short-range devices in both the United States and Canada, it is REC's position that the Commission's Rules regarding license-free short-range devices that operate in

---

[94] CEPT Recommendation T/R 61-02 ("*CEPT 61-02*"). https://docdb.cept.org/download/3314
[95] CEPT Recommendation T/R 61-01 at Annex 4, Table 3. https://docdb.cept.org/download/2ae38a89-e58a/TR6101.pdf
[96] 47 CFR §97.5(d).
[97] CEPT 61-02 at Annex 4.
[98] 47 CFR §§ 15.219, 15.221 and 15.239.
[99] https://ised-isde.canada.ca/site/spectrum-management-telecommunications/sites/default/files/attachments/2022/BETS-1-i1a1-2021-06EN.pdf

the bands of 88-107.6 MHz and 525-1705 kHz that already meet the Canada BETS-1 standard be usable in the United States in addition to the devices that were developed under the existing United States regulation.

IX. CONCLUSION

234. As we mentioned up front, there is still a need for regulations and there are many of them that cannot be just “deleted”. Instead, regulations need to reflect government efficiency, reflect technological change both inside and outside of the agency, encourage marketplace entry and reduce burdens. REC has presented many of the regulatory changes we would like to see that would help promote all of those needs and more. While time had expired on us providing detailed benefits on some proposed items, we plan to supplement this pleading with more information during the pendency of this proceeding.

235. REC continues to state that LPFM is not the true threat to radio. Radio’s true threat is “non-radio”. Radio remains the greatest “app” ever made and we do believe that some LPFM stations are responsible for people, especially those in the younger generations to discover or rediscover the medium of broadcast radio. Once someone turns the radio on or back on for a certain station, we know that they will wander.

236. REC acknowledges the many issues and concerns that others in the broadcast industry as well as the agency has in regards to LPFM and the changes that REC has proposed in the past and during this proceeding. REC is happy to state that we have been in the process of building bridges and finding common ground with the National Association of Broadcasters, the state broadcasters associations and individual broadcast licensees to listen to their concerns and to take actions to address those concerns through direct and indirect intervention and through the nature of our proposals. We ask the Commission to be a part of this equation. LPFM is celebrating 25 years of existence this year in 2025, the service has matured. We ask the Commission to help LPFM continue to grow in a way that maintains the integrity of the FM broadcast band and rewards those who have demonstrated their ability to participate and comply through gained experience.

Respectfully submitted,

/S/
Michelle Bradley, CBT
Founder
REC Networks

April 11, 2025

APPENDIX A

REC NETWORKS
PROPOSED CHANGES TO FEDERAL REGULATIONS

In this Appendix, we provide in a format recognized by the National Archives and Records Administration ("NARA") that outline proposed regulations based on proposals made by REC in this proceeding. We also include references for each proposed rule section change to the section(s) and subsection(s) used in this pleading in order to determine which part of this pleading is recommending the change.

CODE OF FEDERAL REGULATIONS – TITLE 47

PART 15 – RADIO FREQUENCY DEVICES

SUBPART C – Intentional Radiators

(1) [VIII] Amend §15.219 to change the title and to read as follows:

§15.219 Operation in the band 525-1705 kHz

(a) Devices used under this section must be certified for compliance with the requirements of this part following the procedures described in Part 2 of this chapter. In the alternative, equipment for which bears a Technical Acceptance Certificate (TAC) from the Government of Canada, pursuant to Broadcasting Equipment Technical Standard 1 (BETS-1) may be used pursuant to this section.

(b) The antenna is to be permanently connected to the transmitter.

(c) The maximum power output of the transmitter into its antenna with no modulation, shall not produce a field strength of more than 250 microvolts per meter measured at a distance of 30 meters. Alternatively, the total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed 100 milliwatts.

(d) Using an internal control or adjustments, the transmitter shall be capable of being tuned to any discrete frequency used in the AM broadcast band.

(e) The carrier frequency shall not vary by more than 0.02% when equipment is operated at rated supply voltage and over the following temperature range: +5º C to +45º C for equipment designed for operation indoors, or -25º C to +45º C for equipment designed for operation outdoors.

(f) Any emission that falls outside the 30 kHz band centered on the carrier frequency shall not exceed 20 microvolts per meter as measured at a distance of 30 meters.

(g) The frequency of operation shall be chosen such that operation is not within the protected field strength contours of licensed AM stations.

(2) [VIII] Amend §15.221 to change the title as follows:

§15.221 Campus radio systems in the band 525-1705 kHz

(3) [VIII] Amend §15.239 to read as follows:

§15.239 Operation in the band 88-108 MHz.

(a) Devices used under this section must be certified for compliance with the requirements of this part following the procedures described in Part 2 of this chapter. In the alternative, equipment for which bears a Technical Acceptance Certificate (TAC) from the Government of Canada, pursuant to Broadcasting Equipment Technical Standard 1 (BETS-1) may be used pursuant to this section.

(b) The antenna is to be permanently connected to the transmitter.

(c) The maximum power output of the transmitter into its antenna, with no modulation, shall not produce a field strength exceeding 100 microvolts per meter measured at a distance of 30 meters.

(d) Using an internal control or adjustments, the transmitter shall be capable of being tuned to any discrete frequency used in the FM broadcast band.

(e) The carrier frequency shall not vary by more than 0.01% when equipment is operated at rated supply voltage and over the following temperature range: +5º C to +45º C for equipment designed for operation indoors, or -25º C to +45º C for equipment designed for operation outdoors.

(f) Any emission that falls outside of the 240 kHz band centered on the carrier frequency shall not exceed 10 microvolts per meter as measured at a distance of 30 meters.

PART 73 – RADIO BROADCAST SERVICES

SUBPART D – Noncommercial Educational FM Broadcast Stations

(4) [II-B] Amend §73.506 by changing paragraph (a) to read as follows:

§73.506 Classes of noncommercial educational FM stations and channels

(a) Noncommercial educational stations operating on the channels specified in §73.501 are divided into the following classes:

(1) A Class D educational (secondary) station is one operating no more than 99 watts and with a service contour not exceeding 5 kilometers.

(2) Noncommercial educational FM (NCE-FM) stations operating a service contour of 6 kilometers or greater are classified as Class A, B1, B, C3, C2, C1, C0, or C depending on the station’s effective radiated power and antenna height above average terrain, and on the zone in which the station’s transmitter is located, on the same basis as set forth in §§73.210 and 73.211 for commercial stations.

* * * * *

(5) [III-B] Amend §73.512 to remove and reserve paragraphs (a) and (b).

§73.512 Special procedures applicable to Class D noncommercial stations

* * * * *

(a) [Reserved]

(b) [Reserved]

* * * * *

(6) [III-A] Amend §73.513 change the title and to add new paragraph (c) to read as follows:

§73.513 Noncommercial educational FM stations operating on channels 221 through 300

* * * * *

(c) Allotments that were previously reserved for noncommercial educational broadcast stations may be unreserved at the request of the licensee and upon a showing that the allotment has been licensed as a noncommercial educational FM station for a period of at least 10 years and upon a technical showing that within the allotment's service contour, there are two noncommercial educational FM broadcast stations operating on channels 201 through 220 provides noncommercial educational radio service to 2,000 or more persons who constitute 10% of the population within the allotment's 60 dBu (1 mV/m) service contour.

(7) [III-C] Add new rule §73.516 to read as follows (RM-11846):

§73.516 Rural stations near urbanized areas.

(a) An NCE FM station authorized under this section must meet all of the following requirements:

(1) *Station location –*

(i) At the time of application, the facility proposed must be the first aural service for the community of license;

(ii) The station must be located outside of all top-50 radio markets as determined by Nielsen Audio at the time of filing;

(iii) A showing must be made that no channel in the reserved band is available with a minimum facility of 0.1 kw at 30 meters HAAT with a nondirectional antenna; and

(iv) A showing must be made that at least one facility that places a 1 mV/m coverage contour over the station location also places a 1 mV/m coverage contour over at least 50 percent of the population of an urbanized area.

(2) *Facility requirements:* Facilities authorized under this section must meet the following requirements:

(i) Proposed facilities must have a service contour not exceeding 13 kilometers;

(ii) Facilities may not exceed 0.25 kilowatts ERP.

(iii) Facilities proposed may not have a 1 mV/m contour that overlaps into any portion of an urbanized area.

(iv) Facilities must meet prohibited overlap requirements of §73.509 except that proposed facilities may cause their interfering contour to overlap the protected service contour of a second- or third- adjacent channel facility by a ratio of 40 dBu. In no case shall the distinct population within this overlap exceed 0.2 percent of the population of the affected station or station's protected service contour and in no case shall exceed a population of 3,000 distinct persons.

(v) Facilities must continue to meet the minimum distance separation requirements of §73.507 and the TV channel 6 protection requirements of §75.525.

(3) *Licensee requirements:*

(i) Licensees and permittees must establish and maintain a local presence consisting of a headquarters and at least 75 percent of the licensee's board members within a 20-mile radius of the proposed transmitter site.

(ii) The licensee or permittee or any party to such licensee or permittee may not have an attributable interest in any full-service or low-power radio or TV station. Applicants with attributable an attributable interest in a LPFM station, must at the time of application, disclose the attributable interest and include a pledge statement that upon program test of the proposed facility, the applicant would have divested from the LPFM attributable interest.

(iii) The licensee or permittee or any party to such licensee or permittee may hold an attributable interest in one or more FM translator stations that specify the rural station as the primary station. Translators authorized in this manner must receive the signal directly through space, converted and suitably amplified.

(b) *Incumbent overlapped facilities* –

(1) Prior to the grant of a new overlapping arrangement, the affected station or stations shall be issued an order to show cause to afford an opportunity to state as to why their license should not be modified to permit the overlap.

(2) Upon grant of the overlapping station's construction permit, the license of the overlapped station shall be modified to include a condition that any future modifications made to the facility will be done on a *per se* basis in respect to second and third-adjacent channels.

(3) Incumbent overlapped facilities may make modifications without regard to the overlapping facility except in cases where the modification would result in a co-channel or first-adjacent channel relationship with the overlapping facility.

(8) [V-A] Amend §73.525 by changing the introductory text, paragraphs (a), (c) and (d); and the introductory text to paragraphs (b)(1) and (e) to read as follows:

§73.525 TV Channel 6 Protection

The provisions of this section apply to applications for construction permits for new or modified facilities for a NCE-FM station on Channels 200 or 201 unless the application is accompanied by a written agreement between the NCE-FM applicant and each affected TV Channel 6 broadcast station concurring with the proposed NCE-FM facilities.

(a) Affected TV Channel 6 station.

(1) An affected TV Channel 6 station is a TV broadcast station which is authorized to operate on Channel 6 and is located within 265 kilometers of a NCE-FM station operating on Channel 201.

(2) Where a NCE-FM application has been accepted for filing or granted, the subsequent acceptance of an application filed by a relevant TV Channel 6 station will not require revision of the pending NCE-FM application or the FM station's authorized facilities, unless the provisions of paragraph (e)(3) of this section for TV translator or satellite stations apply.

(b) * * *

(1) A NCE-FM station license authorized to operate on channel 201 as of December 31, 1984, or a permittee, granted a construction permit for a NCE-FM station as of December 31, 1984, are not subject to this section, unless they propose either:

(i) * * *

(ii) * * *

* * * * *

(c) New NCE-FM stations. Except as provided in paragraph (d) of this section, applicants for NCE-FM stations proposing to operate on Channel 201 must submit a showing indicating that the predicted interference area resulting from the proposed facility contains no more than 3,000 persons.

* * * * *

(d) Colocated stations. As an alternative to the provisions contained in paragraphs (b) and (c) of this section, an application for a NCE-FM station operating on Channel 201 and located at 0.4 kilometer (approximately 0.25 mile) from a TV Channel 6 station will be accepted under the following requirements:

(1) The effective radiated power cannot exceed 1.1 kilowatts.

(2) The NCE-FM application contains a certification that the applicant has coordinated its antenna with the affected TV station by employing either: The same number of antenna bays with radiation centers

separated by no more than 30 meters (approximately 100 feet) vertically; or, the FM vertical pattern not exceeding the TV vertical pattern by more than 2 dB.

(e) Calculation of predicted interference area and population. Predictions of interference required under this section and calculations to determine the number of persons within a predicted interference area for NCE-FM operation on Channel 201 are made as follows:

* * * * *

(9) [VI-C] Amend the header of Subpart F to change the title as shown:

SUBPART F – High Frequency Broadcast Stations

(10) Amend §73.701 by changing paragraph (a) to read as follows:

§73.701 Definitions

* * * * *

(a) ***High Frequency Broadcast Stations.*** A broadcasting station employing frequencies allocated to the broadcasting service between 5900 and 26100 kHz. A station may be authorized more than one transmitter. There are both Federal and non-Federal Government high frequency broadcast stations; only the latter are licensed by the Commission and subject to the rules of this subpart.

* * *

(11) [VI-A] Delete §73.731.

(12) [VI-B] Amend §73.751 to read as follows:

§ 73.751 Operating power.

No high frequency broadcast station shall be authorized to install, or be licensed for operation of, transmitter equipment with:

(a) A rated carrier power of less than 5 kilowatts (kW) if double-sideband (DSB) modulation is used,

(b) A peak envelope power of less than 5 kW if single-sideband (SSB) modulation is used, or

(c) A mean power of less than 1 kW if digital modulation is used.

(d) For stations transmitting on 25,670-26,100 kHz, the minimum power may be further reduced to 1 kW if DSB modulation is used or 0.2 kW if digital modulation is used.

(13) [VI-A] Amend §73.753 to read as follows:

§ 73.753 Antenna systems.

All High Frequency Broadcast Stations, except those operating on 25,670-26,100 kHz with a power not exceeding 1 kW for double side band or 0.2 kW with digital operation, shall operate with directional antennas. Such antennas shall be designed and operated so that the radiated power in the maximum lobe toward the specific zone or area of reception intended to be served shall be at least 10 times the average power from the antenna in the horizontal plane. Radiation in all other directions shall be suppressed to the maximum extent technically feasible. In order to eliminate or mitigate harmful interference, the direction of the maximum lobe may be adjusted upon approval of the Commission.

(14) [VI-C] Delete §73.788.

SUBPART G – Low Power FM Broadcast Stations (LPFM)

(15) Amend §73.801 to add §73.1870 to the list as set forth:

§73.801 Broadcast regulations applicable to LPFM stations

*** * * * ***
Section 73.1870 Chief operators.
* * * * *

(16) [II-A, II-B, V-C] Amend §73.807 by revising introductory text and by revising paragraphs (a), (b), (c), (d), (e)(1) and (g) to read as follows:

§73.807 Minimum distance separation between stations

Minimum separation requirements for LP100 and LP250 stations are listed in the following paragraphs. Except as noted below, an LPFM station will not be authorized unless the co-channel, first-, second-adjacent and I.F. channel separations are met. LP100 and LP250 stations need not satisfy the third-adjacent channel separations listed in paragraphs (a) through (d) in order to be authorized. The third-adjacent channel separations are included for use in determining for purposes of Section 73.810 which third-adjacent channel interference regime applies to an LPFM station.

Minimum distances for co-channel and first-adjacent channel are separated into two columns. The left-hand column lists the required minimum separation to protect other stations and the right-hand column lists (for informational purposes only) the minimum distance necessary for the LPFM station to receive no interference from other stations assumed to be operating at the maximum permitted facilities for the station class. For second-adjacent channel and intermediate frequency (I.F.) channels, the required minimum distance separation is sufficient to avoid interference received from other stations.

(a) Minimum distance separation to full-service FM stations.

(1) An LP100 station will not be authorized initially unless the minimum distance separations in the following table are met with respect to authorized FM stations, applications for new and existing FM stations filed prior to the release of the public notice announcing an LPFM window period for LPFM stations and vacant FM allotments. LPFM modification applications other than a change in station class from LP100 to LP250 must either meet the distance separations in the following table or, if short-spaced, not lessen the spacing to subsequently authorized stations.

Station class protected by LP100	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)
	Required	For no interference received from max. class facility	Required	For no interference received from max. class facility	Required
LP100	24	24	14	14	None
LP250	26	29	15	16	None
D	24	24	13	13	6
A	67	92	56	56	29
B1	87	119	74	74	46
B	112	143	97	97	67
C3	78	119	67	67	40
C2	91	143	80	84	53
C1	111	178	100	111	73
C0	122	193	111	130	84
C	130	203	120	142	93

(2) An LP250 station will not be authorized initially unless the minimum distance separations in the following table are met with respect to authorized FM stations, applications for new and existing FM stations filed prior to the release of the public notice announcing an LPFM window period for LPFM stations and vacant FM allotments. LPFM modification applications must either meet the distance separations in the following table or, if short-spaced, not lessen the spacing to subsequently authorized stations.

Station class protected by LP250	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)	I.F. channel minimum separations
	Required	For no interference received from max. class facility	Required	For no interference received from max. class facility	Required	10.6 or 10.8 MHz
LP100	29	29	16	15	None	None
LP250	31	31	17	17	None	None
D	29	29	16	16	7	3
A	72	94	58	58	30	6
B1	93	121	77	77	47	9
B	121	145	99	85	68	12
C3	83	121	69	69	41	9
C2	96	145	82	85	54	12
C1	116	179	102	112	74	20
C0	127	194	114	131	85	22

C	136	205	122	144	94	28

(3) LP100 and LP250 stations must satisfy the second-adjacent channel minimum distance separation requirements of paragraphs (a)(1) and (a)(2) of this section with respect to any third-adjacent channel FM station that, as of September 20, 2000, broadcasts a radio reading service via a subcarrier frequency.

(4) LP250 stations operating with 100 watts or less effective radiated power (ERP) need not satisfy the I.F. channel minimum separation requirements.

(5) In the course of a modification of authorized facilities pursuant to §73.870, proposed LP100 and LP250 facilities which do not meet the co-channel or first-adjacent channel separations in subparagraphs (a)(1) or (a)(2) to a LP100, LP250 or Class D facility may be acceptable for filing upon a technical showing of no contour overlap pursuant to §73.815.

(b) Minimum distance separation to full-service FM stations in Puerto Rico and the Virgin Islands.

(1) In addition to meeting or exceeding the minimum separations in paragraph (a)(1), new LP100 stations will not be authorized in Puerto Rico or the Virgin Islands unless the minimum distance separations in the following tables are met with respect to authorized or proposed FM stations:

Station class protected by LP100	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)—required
	Required	For no interference received from max. class facility	Required	For no interference received from max. class facility	
A	80	111	70	70	42
B1	95	128	82	82	53
B	138	179	123	123	92

(2) In addition to meeting or exceeding the minimum separations in paragraph (a)(2), new LP250 stations will not be authorized in Puerto Rico or the Virgin Islands unless the minimum distance separations in the following tables are met with respect to authorized or proposed FM stations:

Station class protected by LP250	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent channel minimum separation (km)—required	I.F. channel minimum separations—10.6 or 10.8 MHz
	Required	For no interference received from max. class facility	Required	For no interference received from max. class facility		
A	85	112	72	69	43	9
B1	101	129	84	85	54	11

B	147	181	126	145	94	19

(3) LP100 and LP250 stations must satisfy the second-adjacent channel minimum distance separation requirements of paragraphs (b)(1) and (b)(2) of this section with respect to any third-adjacent channel FM station that, as of September 20, 2000, broadcasts a radio reading service via a subcarrier frequency.

(4) LP250 stations operating with 100 watts or less effective radiated power (ERP) need not satisfy the I.F. channel minimum separation requirements.

(5) Minimum distance separations towards “grandfathered” superpowered Reserved Band stations are as specified. Full service FM stations operating within the reserved band (Channels 201-220) with facilities in excess of those permitted in § 73.211(b)(1) or § 73.211(b)(3) shall be protected by LPFM stations in accordance with the minimum distance separations for the nearest class as determined under § 73.211. For example, a Class B1 station operating with facilities that result in a 60 dBu contour that exceeds 39 kilometers but is less than 52 kilometers would be protected by the Class B minimum distance separations. Class D stations with 60 dBu contours that exceed 5 kilometers will be protected by the Class A minimum distance separations. Class B stations with 60 dBu contours that exceed 52 kilometers will be protected as Class C1 or Class C stations depending upon the distance to the 60 dBu contour. No stations will be protected beyond Class C separations.

(6) Effective [date] and for [days] following in order to accommodate the implementation of the LP250 service class, modification applications specifying operation in the LP250 service class must be separated from LP100 stations by a minimum of 31 kilometers co-channel and 17 kilometers on first-adjacent channel.

(c) Minimum distance separation to FM translator stations.

(1) In addition to meeting the separations specified in paragraphs (a) and (b), LP100 applications must meet the minimum separation requirements in the following table with respect to authorized FM translator stations, cutoff FM translator applications, and FM translator applications filed prior to the release of the Public Notice announcing the LPFM window period.

Distance to FM translator 60 dBu contour	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent minimum separation (km)—required
	Required	For no interference received	Required	For no interference received	
13.3 km or greater.....	39	67	28	35	21
Greater than 7.3 km, but less than 13.3 km..	32	51	21	26	14
7.3 km or less	26	30	15	16	8

(2) In addition to meeting the separations specified in paragraphs (a) and (b), LP250 applications must meet the minimum separation requirements in the following table with respect to authorized FM translator stations, cutoff FM translator applications, and FM translator applications filed prior to the release of the Public Notice announcing the LPFM window period:

Distance to FM translator 60 dBu contour	Co-channel minimum separation (km)		First-adjacent channel minimum separation (km)		Second and third adjacent minimum separation (km)—required
	Required	For no interference received	Required	For no interference received	
13.3 km or greater.....	44	69	30	37	21
Greater than 7.3 km, but less than 13.3 km....	37	53	23	27	14
7.3 km or less.....	31	32	17	18	8

(3) In the course of a modification of authorized facilities pursuant to §73.870, proposed LP100 and LP250 facilities which do not meet the co-channel or first-adjacent channel separations in subparagraphs (c)(1) or (c)(2) may be acceptable for filing upon a technical showing of no contour overlap pursuant to §73.815.

(d) Existing LP250 and LP100 stations which do not meet the separations in paragraphs (a) through (c) of this section may be relocated provided that the separation to any short-spaced station is not reduced.

(e) * * * * *

(1) Waiver of the second-adjacent channel separations. The Commission will entertain requests to waive the second-adjacent channel separations in paragraphs (a) through (c) of this section on a case-by-case basis. In each case, the LPFM station must establish, using methods of predicting interference taking into account all relevant factors, including terrain-sensitive propagation models, that its proposed operations will not result in interference to any authorized radio service. The LPFM station may do so by demonstrating that no actual interference will occur due to intervening terrain or lack of population. The LPFM station may use an undesired/desired signal strength ratio methodology to define areas of potential interference. For the purposes of this subsection, “interference” is defined when the population affected does not exceed 0.2 percent of the population within the service contour of each short-spaced station or 3,000 persons overall, whichever is lower.

(f) * * * * *

(g) International considerations within the border zones.

(1) Protections with respect to Canada

(i) Under the 1991 United States-Canada FM Broadcasting Agreement, as amended, LP100 assignments within 320 kilometers (199) miles of the common border shall be separated from Canadian allotments and assignments by not less than the distance given on the following table, using the distance calculation methodology set out in the Agreement:

Canadian station class	Co-channel (km)	First-adjacent channel (km)	Second-adjacent channel (km)	Third-adjacent channel (km)
A1 & Low Power …….....	45	30	21	20
A ……...	66	50	41	40
B1 …….....	78	62	53	52
B ……...	92	76	68	66
C1 …….....	113	98	89	88
C ……...	124	108	99	98

(ii) Under the 1991 United States-Canada FM Broadcasting Agreement, as amended, LP250 assignments within 320 kilometers (199) miles of the common border shall be separated from Canadian allotments and assignments by not less than the distance given on the following table, using the distance calculation methodology set out in the Agreement:

Canadian station class	Co-channel (km)	First-adjacent channel (km)	Second-adjacent channel (km)	Third-adjacent channel (km)
A1 & Low Power …….....	54	33	22	20
A ……..	76	53	42	40
B1 …….....	88	65	54	52
B ……..	102	80	68	67
C1 …….....	123	101	90	88
C ……..	133	111	100	98

(iii) Application for LPFM stations within 320 kilometers of the Canadian border may employ an ERP of up to a maximum of 100 watts for LP100 stations and 250 watts for LP250 stations. The distance to the 34 dBu interfering contour may not exceed 60 kilometers in any direction.

(iv) LP100 and LP250 stations that do not meet the minimum distance separation requirements of subparagraphs (g)(1)(A) and (g)(1)(B) may waive these distance separation requirements upon a technical showing that the appropriate interfering contour does not overlap any land area in Canada:

(A) Co-channel: 34 dBu

(B) First-adjacent channel: 48 dBu

(C) Second-adjacent channel: 74 dBu

(D) Third-adjacent channel: 94 dBu

(2) Protections with respect to Mexico

(i) Under the 1992 United States-Mexico FM Broadcasting Agreement, LP100 assignments within 320 kilometers (199) miles of the common border shall be separated from Mexican allotments and assignments by not less than the distance given on the following table, using the distance calculation methodology set out in the Agreement:

Mexican station class	Co-channel (km)	First-adjacent channel (km)	Second- and third-adjacent channel (km)
Low Power ……. …….	27	17	9
A ……..	43	32	25
AA ……	47	36	29
B1 …….....	67	54	45
B ……...	91	76	66
C1 …….....	91	80	73
C ……	110	100	92

(ii) Under the 1992 United States-Mexico FM Broadcasting Agreement, LP250 assignments within 320 kilometers (199) miles of the common border shall be separated from Canadian allotments and assignments by not less than the distance given on the following table, using the distance calculation methodology set out in the Agreement:

Mexican station class	Co-channel (km)	First-adjacent channel (km)	Second- and third-adjacent channel (km)
Low Power ……. ……..	33	19	10
A ……	49	35	26
AA …….	53	39	30
B1 …….....	74	57	46
B ……	102	80	68
C1 …….....	97	83	74
C …….....	116	102	93

(iii) LPFM stations located within 125 kilometers Mexican border are limited to 50 watts (0.05 kW) ERP, a 60 dBu service contour of of 8.7 kilometers and a 34 dBu interfering contour of 32 kilometers in the direction of the Mexican border. LP100 stations may operate up to 100 watts and LP250 stations may operate up to 250 watts in all other directions.

(iv) LPFM stations located between 125 kilometers and 320 kilometers from the Mexican border may operate in excess of 50 watts up to a maximum ERP of 100 watts for LP100 stations and 250 watts for LP250 stations. However, in no event shall the location of the 60 dBu contour lie within 116.3 kilometers of the Mexican border.

(3) The Commission will notify the International Telecommunications Union (ITU) of any LPFM authorizations in the US Virgin Islands. Any authorization issued for a US Virgin Islands LPFM station will include a condition that permits the Commission to modify, suspend or terminate without right to a hearing if found by the Commission to be necessary to conform to any international regulations or agreements.

(4) The Commission will initiate international coordination of a LPFM proposal even where the above Canadian and Mexican spacing tables are met, if it appears that such coordination is necessary to maintain compliance with international agreements.

(16) Amend §73.808 to read as follows:

§73.808 Distance computations

For the purposes of determining compliance with any LPFM distance requirements towards domestic facilities, distances shall be calculated in accordance with Sec. 73.208(c) of this part.

(17) [II-D] Amend §73.809 to revise paragraph (a)(3) to read as follows:

§73.809 Interference protection to full service FM stations

(a) * * *

* * * * *

(3) Any area of the community of license of such full service station that is predicted to receive a 1 mV/m (60 dBu) signal. Predicted interference shall be calculated in accordance with the ratios set forth in §73.215 paragraphs (a)(1) and (a)(2). Actual interference will be considered to occur whenever reception of a regularly used signal is impaired by the signal radiated by the LPFM station.

* * * * *

(18) [II-A] Amend §73.811 to read as follows:

§73.811 LPFM power and antenna height requirements.

(a) Maximum facilities.

(1) LP100 stations will be authorized to operate with maximum facilities of 100 watts ERP at 30 meters HAAT. An LPFM station with a HAAT that exceeds 30 meters will not be permitted with an ERP greater than that which would result in a 60 dBu contour of 5.6 kilometers. In no event will an ERP of less than

one watt ERP be authorized. No new or modified LP100 facility will be authorized specifying a HAAT of 452 meters or greater.

(2) LP250 stations will be authorized to operate with maximum facilities of 250 watts ERP at 30 meters HAAT. An LPFM station with a HAAT that exceeds 30 meters will not be permitted with an ERP greater than that which would result in a 60 dBu contour of 7.1 kilometers. In no event will an ERP of less than one watt ERP be authorized.

(b) Minimum facilities.

(1) LP100 facilities may not operate with facilities of less than 50 watts ERP at 30 meters or the equivalent necessary to produce a 60 dBu contour that extends at least 4.7 kilometers.

(2) LP250 facilities may not operate with facilities of less than 101 watts ERP at 30 meters or the equivalent necessary to produce a 60 dBu contour that extends at least 5.7 kilometers.

(19) [II-C] Add new §73.815 to read as follows:

§73.815 Contour protection and interference remediation

(a) Contour protection.

(1) If a proposed LPFM station does not meet the minimum distance separation requirements specified in §73.807(a) towards an LP100, LP250 or Class D facility, or §73.807(c) towards an FM translator facility on co-channel or first adjacent channel, the application shall be accepted for filing if the proposed operation does not involve overlap of predicted field contours with the short-spaced facility, as set forth:

Frequency separation	Interference contour of proposed LPFM station	Protected contour of other station
Co-channel	0.1 mV/m (40 dBu)	1 mV/m (60 dBu)
200 kHz	0.5 mV/m (54 dBu)	1 mV/m (60 dBu)

(2) LP100 and LP250 stations, for the purposes of determining overlap pursuant to this paragraph must be considered as operating with the maximum permitted facilities unless accompanied by consent of the affected LP100 or LP250 facility.

(3) The following standards must be used to compute the distances to the pertinent contours:

(i) The distances to the protected contours are computed using Figure 1 of § 73.333 [F(50,50) curves] of this chapter.

(ii) The distances to the interference contours are computed using Figure 1a of § 73.333 [F(50,10) curves] of this chapter. In the event that the distance to the contour is below 16 kilometers (approximately 10 miles), and therefore not covered by Figure 1a, curves in Figure 1 must be used.

(iii) The effective radiated power (ERP) to be used is the maximum ERP of the main radiated lobe in the pertinent azimuthal direction. If the transmitting antenna is not horizontally polarized only, either the

vertical component or the horizontal component of the ERP should be used, whichever is greater in the pertinent azimuthal direction.

(iv) The antenna height to be used is the height of the radiation center above the average terrain along each pertinent radial, determined in accordance with § 73.313(d) of this chapter.

(4) An application for a change (other than a change in channel) in the authorized facilities of an LPFM station will be accepted even though overlap of field strength contours would occur with another station in an area where such overlap does not already exist, if:

(i) The total area of overlap with that station would not be increased:

(ii) The area of overlap with any other station would not increase;

(iii) The area of overlap does not move significantly closer to the station receiving the overlap; and,

(iv) No area of overlap would be created with any station with which the overlap does not now exist.

(5) The provisions of this section concerning prohibited overlap will not apply where the area of such overlap lies entirely over water. In addition, an application otherwise precluded by this section will be accepted if it can be demonstrated that no actual interference will occur due to intervening terrain, lack of population or such other factors as may be applicable.

(b) Interference remediation.

(1) An application for an LPFM station under this section will not be accepted for filing nor will an authorized LPFM station be permitted to continue to operate, even though the proposed operation would not involve overlap of field strength contours an affected station, as set forth in paragraph (a) of this section, if grant of the authorization will result in interference to the reception of the regularly used, off-the-air signal of the authorized co-channel or first adjacent channel broadcast station within the 45 dBu field strength contour of the desired station.

(2) An LPFM station originally authorized under this part will not be permitted to continue to operate if it causes any actual interference to the affected LP100, LP250, Class D or FM translator station for which such authorization was made if it causes actual interference to the direct off-the-air signals of the affected station; except that no listener complaint will be considered actionable if the alleged interference occurs outside the desired station’s 45 dBu contour.

(3) For the purposes of paragraph (b), Interference is demonstrated by:

(i) The required minimum number of valid listener complaints as determined using Table 1 and defined in paragraph (b)(4) of this section;

(ii) A map plotting the specific location of the alleged interference in relation to the complaining station's 45 dBu contour;

(iii) A statement that the complaining station is operating within its licensed parameters;

(iv) A statement that the complaining station licensee has used commercially reasonable efforts to inform the relevant translator licensee of the claimed interference and attempted private resolution; and

(v) U/D data demonstrating that at each listener location the undesired to desired signal strength exceeds −20 dB for co-channel situations or −6 dB for first-adjacent channel situations, calculated using the methodology set out in paragraph (a)(3) of this section.

Table 1 to §73.815(b)(3)(i)

Population within protected contour	Minimum number of listener complaints required for interference claim
1-199,999	6
200,000-299,999	7
300,000-399,999	8
400,000-499,999	9
500,000-999,999	10
1,000,000-1,499,999	15
1,500,000-2,000,000	20
2,000,000 or more	25
LPFM stations with fewer than 5,000	3

(4) For the purposes of this paragraph, a listener complaint is a statement signed by the listener and contains the following information:

(i) The complainant's full name, address, and phone number;

(ii) A clear, concise, and accurate description of the location where interference is alleged or predicted to occur;

(iii) A statement that the complainant listens over-the-air to the desired station at least twice a month; and

(iv) A statement that the complainant has no legal, financial, employment, or familial affiliation or relationship with the desired station.

(c) The provisions of this section are only applicable in the course of a modification of facility pursuant to §73.870 of this Subpart.

(20) [II-E] Amend §73.816 by **deleting** paragraph (d)(3).

(21) [II-A, V-A] Amend §73.825 to read as follows:

§73.825 Protection to reception of TV channel 6

The following spacing requirements will apply to LPFM applications on Channel 201 unless the applica(tion is accompanied by a written agreement between the LPFM applicant and each affected TV Channel 6 broadcast station concurring with the LPFM facilities.

(a) LPFM stations will be authorized on Channel 201 only if the pertinent minimum distance separation in respect to all full power TV Channel 6 stations is 140 kilometers or greater for LP100 stations or 143 kilometers or greater for LP250 stations.

(b) LPFM stations will be authorized on Channel 201 only if the pertinent minimum distance separation in respect to all low power TV, TV translator and Class A TV stations authorized on Channel 6 is 98 kilometers or greater for LP100 stations and 101 kilometers or greater for LP250 stations.

(c) LPFM stations on Channel 201 that do not meet the minimum distance separation requirements in paragraphs (a) and (b) of this section may demonstrate compliance through a technical study, pursuant to §73.525 of this part or §74.1205 of Part 74 and upon notification to the affected TV stations.

(22) [II-A, II-F] Amend §73.853 to read as follows:

§73.853 Licensing requirements and service

(a) An LPFM station may be licensed only to:

(1) Nonprofit educational organizations and upon a showing that the proposed station will be used for the advancement of an educational program;

(2) State and local governments and non-government entities that will provide non-commercial radio services; and

(3) Tribal Applicants, as defined in paragraph (c) of this section that will provide non-commercial radio services.

(b) Only local applicants will be permitted to submit applications and to hold authorizations in the LPFM service. For the purposes of this paragraph, an organization will be deemed local if it can certify at the time of application, that it meets the criteria listed below and if it continues to satisfy the criteria at all times thereafter. For the purposes of this paragraph, an applicant will be deemed local if it can certify that:

(1) For applicants other than state and local governments or Tribal Applicants:

(i) The applicant is physically headquartered or if an academic educational institution, has a campus within 32.1 km (20 miles) of the transmitting antenna; or

(ii) It has 75% of its board members residing within 32.1 km (20 miles) of the of the transmitting antenna.

(2) In the case of a state or local government applicant, the applicant has jurisdiction within the service area of the proposed LPFM station. Jurisdiction shall be defined as the legal political boundary of the government entity.

(4) In the case of a Tribal Applicant, as defined in paragraph (c) of this section, the Tribal Applicant's Tribal lands, as that term is defined in Section 73.7000 of this Part, are within the service area of the proposed LPFM station.

(c) A Tribal Applicant is a Tribe or an entity that is 51 percent or more owned or controlled by a Tribe or Tribes. For these purposes, Tribe is defined as set forth in Section 73.7000 of this Part.

(d) LPFM stations seeking operation with the LP250 service class must meet and maintain additional eligibility requirements.

(1) LPFM stations seeking operation with the LP250 class service must certify that:

(i) Within the past four rolling years, based on the due date for EAS Test Reporting System (ETRS) Form Three, the station has participated in the EAS National Periodic Test, pursuant to Section 11.61(a)(3) of this chapter and has timely submitted all required forms;

(ii) Within the past four calendar years, the station has met the operating schedule requirements of Section 73.850, paragraph (b) of this subpart on each consecutive day;

(iii) Within the past four rolling years, based on the date of the notice, the station has not received any of the following notices that were not subsequently rescinded: *Forfeiture Notice*, *Notice of Apparent Liability for Forfeiture*, *Consent Decree* or *Notice of Violation*.

(iv) Within the past four rolling years, the station has has been licensed to the same entity which was not changed through an assignment of license or transfer of control.

(2) For the purposes of this subsection, “four rolling years” is defined as 1,461 consecutive days in which the station has been fully-licensed and has operated pursuant to the operating schedule requirements of Section 73.850, paragraph (b), including days that the station is not broadcasting, pursuant to the operating schedule requirements; or operating pursuant to a granted time share agreement, including days the station is not broadcasting, pursuant to the time share agreement.

(3) New LPFM stations are not eligible until at least 1,461 days following the day that their station’s original station license was granted.

(4) Applications that propose to construct or license a modified LPFM station to specify LP250 facilities shall be held in abeyance by the Media Bureau for a period of at least 14 days prior to any grant of authorization for LP250 facilities.

(23) [II-F] Amend §73.855 by replacing paragraphs (b) and (c) with a new paragraph (b) to read as follows:

§73.855 Ownership limits

(a) * * * * *

(b) Not withstanding the general prohibition set forth in paragraph (a) of this section, local government, state government and Tribal Applicants may be granted multiple licenses if:

(1) In the case of a local or state government applicant, one of the multiple applications is submitted as priority application;

(2) In the case of a Tribal Applicant, up to two of the multiple applications are submitted as priority applications; and

(3) The remaining non-priority applications do not have a mutually exclusive challenge.

(24) [II-A, II-G, II-I, II-J] Amend §73.860 by revising paragraphs (b), (c) and (e) and add a new paragraph (f) to read as follows:

§73.860 Cross-ownership

(a) * * * * *

(b) A party may hold attributable interests in one LPFM station and no more than two FM translator stations, two FM booster stations, or one FM translator and one FM booster station for each LPFM station provided that the following requirements are met:

(1) The FM translator station, at all times, synchronously rebroadcasts the primary analog signal of the commonly-owned LPFM station or, if the commonly-owned LPFM station operates in hybrid mode, synchronously rebroadcasts the digital HD-1 version of the LPFM station's signal;

(2) The FM translator station receives the signal of the commonly-owned LPFM station over-the-air and directly from the commonly-owned LPFM station itself or through another commonly-owned translator. The FM booster station receives the signal of the commonly owned LPFM station by any means authorized in §74.1231(i); and

(3) Booster stations commonly owned by LPFM stations may conduct transmissions independent of those broadcast by the primary LPFM station for a period not to exceed three minutes of each broadcast hour. This is a strict hourly limit that may not be exceeded by aggregating unused minutes of program origination.

(c) A party that is a Tribal Applicant, as defined in §73.853(a)(3), may hold an attributable interest in one or more low power television stations provided that the noise limited contour of the LPTV stations serve Tribal Lands as defined in §73.7000 of this part and that the LPTV station is operated in a noncommercial manner.

(d) * * * * *

(e) Except as authorized in paragraph (f) of this section, no LPFM licensee may enter into an operating agreement of any type, including a time brokerage or management agreement, with either a full power broadcast station or another LPFM station.

(f) LPFM stations may enter an operating agreement with any full-power broadcast station or another LPFM station operating in hybrid mode for the sole purpose to facilitate the carriage of the LPFM signal on a programming stream other than the HD-1 or the analog stream. LPFM stations operating

hybrid mode may not receive any payment or similar consideration in connection with the use of their digital bandwidth by another LPFM station.

(25) [V-B, V-F] Amend §73.870 by revising paragraph (a) to read as follows:

§73.870 Processing of LPFM broadcast station applications

(a) A minor change for an LPFM station authorized under this subpart is limited to transmitter site relocations not exceeding 23.5 kilometers on co-channel or 13.5 kilometers for any other channel in the case of LP100 stations or 25.5 kilometers on co-channel or 14.5 kilometers for any other channel in the case of LP250 stations (including changes in class of service to or from LP250) or where the 60 dBu contour of the authorized facility overlaps the 60 dBu contour of the proposed facility. These distance limitations do not apply to amendments or applications proposing transmitter site relocation to a common location filed by applicants that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to §73.872(c) and (e). These distance limitations also do not apply to an amendment or application proposing transmitter site relocation to a common location or a location very close to another station operating on a third-adjacent channel in order to remediate interference to the other station; provided, however, that the proposed relocation is consistent with all localism certifications made by the applicant in its original application for the LPFM station. Minor changes of LPFM stations may include:

(1) Changes in frequency; and

(2) Amendments to time-sharing agreements, including universal agreements that supersede involuntary assignments.

* * * * *

(26) [II-A, V-B] Amend §73.871 by revising paragraph (c) to read as follows:

§73.871 Amendment of LPFM broadcast station applications.

* * * * *

(c) Only minor amendments to new and major change applications will be accepted after the close of the pertinent filing window. Subject to the provisions of this section, such amendments may be filed as a matter of right by the date specified in the FCC's Public Notice announcing the acceptance of such applications. For the purposes of this section, minor amendments are limited to:

(1) Site relocations of 11.2 kilometers or less;

(2) Change in channel;

(3) Site relocations that involve overlap between the 60 dBu service contours of the currently authorized and proposed facilities;

(4) Changes in ownership where the original party or parties to an application either:

(i) Retain more than a 50 percent ownership interest in the application as originally filed;

(ii) Retain an ownership interest of 50 percent or less as the result of governing board changes in a nonstock or membership applicant that occur over a period of six months or more; or

(iii) Retain an ownership interest of 50 percent or less as the result of governing board changes in a nonstock or membership applicant that occur over a period of less than six months and there is no

evidence of a takeover concern or a significant effect on such organization's mission. All changes in a governmental applicant are considered minor;

* * * * *

(27) [II-F, II-H] Amend §73.872 to revise paragraphs (b)(2) and (b)(3) to read as follows:

§73.872 Selection procedure for mutually exclusive LPFM applications

* * *

(b) * * * * *

(2) *Local program origination.* The applicant must pledge to originate locally at least eight hours of programming per day. For purposes of this criterion, local origination is the production of programming by the licensee, within twenty miles of the proposed transmitting antenna. Local origination includes produced call-in shows, music selected by a disc jockey present on site or from a remote location within 20 miles of the proposed transmitting antenna, curated through an automation system utilizing voice tracking technology following a specific playlist or as a pre-recorded program where voice tracks are recorded from a location within 20 miles of the proposed transmitting antenna, broadcasts of events at local schools and broadcasts of musical performances at a local studio or festival, whether recorded or live. Local programming does not include the broadcast of repetitive programming, automation where voice tracking technology is not utilized or time-shifted recordings of non-local programming, whatever its source. In addition, local origination does not include a local program that has been broadcast twice, even if the licensee broadcasts the program on a different day or makes small variations in the program thereafter.

(3) *Main studio.* The applicant must pledge to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m. local time, and is located within 32.1 km (20 miles) of the transmitting antenna. Applicants claiming a point under this criterion must specify the proposed address and telephone number for the main studio in FCC Schedule 318 at the time of filing their application.

* * *

(28) Amend §73.875 to add new paragraph (b)(5) to read as follows

§73.875 Modification of transmission systems

* * * * *

(b) * * *

* * * * *

(5) Any change in LPFM class of service.

* * * * *

(29) [II-I] Amend §73.879 to read as follows:

§73.879 Signal Retransmission.

An LPFM licensee may not simultaneously retransmit on its analog signal; or if hybrid, on any of its digital programming streams, the signal of an analog full-power radio broadcast station or any of the digital streams of any full-power radio broadcast station operating in hybrid mode; regardless of whether the full-power radio broadcast station is received terrestrially or via satellite.

Subpart H – Rules Applicable to All Broadcast Services

(30) [V-E] Amend §73.3573 to revise paragraphs (e)(1) and (f)(1) to read as follows:

§73.3573 Processing FM broadcast station applications.

* * *

(e) * * * * *

(1) Applications for minor modifications for reserved channel FM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a "first come/first served" basis, with the first acceptable application cutting off the filing rights of subsequent, competing applicants. The FCC will periodically release a Public Notice listing those applications accepted for filing. Conflicting applications received after the filing of the first acceptable application will be grouped, according to filing date and time, behind the lead application in the queue. The priority rights of the lead applicant, against all other applicants, are determined by the date and time of filing, but the filing date and time for subsequent conflicting applicants only reserves a place in the queue. The right of an applicant in a queue ripens only upon a final determination that the lead applicant is unacceptable and that the queue member is reached and found acceptable. The queue will remain behind the lead applicant until the construction permit is finally granted, at which time the queue dissolves.

* * * * *

(f) * * * * *

(1) Applications for minor modifications for non-reserved FM broadcast stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and, generally, will be processed in the order in which they are tendered. Applications requiring a filing fee will be considered tendered for filing at the date and time when the fee is paid. The FCC will periodically release a Public Notice listing those applications accepted for filing. Processing of these applications will be on a "first come/first serve" basis with the first acceptable application cutting off the filing rights of subsequent applicants. Applications received after the tender of a lead application will be grouped, according to tendered date and time, behind the lead application in a queue. The priority rights of the lead applicant, as against all other applicants, are determined by the date and time of tender, but the tender date and time for subsequent applicants for that channel and community only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if

the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

* * *

Subpart K – Application and Selection Procedures for Reserved Noncommercial Educational Channels, and for Certain Applications for Noncommercial Educational Stations on Non-Reserved Channels

(31) [III-D] Amend §73.7003 to revise subparagraph (c)(3)(i) to read as follows:

§73.7003 Point system selection procedures

* * *

(c) * * * * *

* * * * *

(3) * * * * *

(i) It applied in a previous filing window, had no granted applications in that filing window, had at least one application accepted for filing and processed, but subsequently dismissed in favor of an applicant with superior points or a tie-breaker showing;

* * * * *

* * * * *

* * *

PART 74 – EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Subpart L – FM Broadcast Translator Stations and FM Broadcast Booster Stations

(32) [IV-I] Amend §74.1201 to revise paragraph (j) and add new paragraphs (m) and (n) to read as follows:

§74.1201 Definitions

* * * * *

(j) AM Fill-in area. A radius of at least 25 miles (40 km), that does not exceed the distance to the farthest lobe of the 2 mV/m daytime contour of the AM radio broadcast station, but in no case, exceeding 50 miles (80.5 km).

* * * * *

(m) ***Fill-in translator.*** An FM translator that has a translator coverage contour solely inside of a Fill-in area or AM Fill-in area and also meets one of the following criteria:

(1) Operates on a reserved band channel between 200 and 220 and was originally authorized prior to August 27, 2022;

(2) Operates on a reserved band channel between 200 and 220; was originally authorized after August 27, 2022 as a new facility or major change modification; is commonly owned by the primary NCE FM station being served; and at the time of filing, the primary NCE FM station was the first or second educational service in the proposed translator coverage area; or

(3) Operates on a non-reserved band channel between 221 and 300.

(n) ***Priority fill-in translator.*** A fill-in translator operating on a reserved band channel between 200 and 220; was originally authorized after August 27, 2022 as a new facility or major change modification; is commonly owned by the primary NCE FM station being served; and at the time of filing, the primary NCE FM station was the first or second educational service in the proposed translator coverage area.

* * * * *

(33) [IV-C] Amend §74.1204 to change the title and revise paragraphs (a)(4) and (a)(5) and the introductory text to paragraph (a) to read as follows:

§74.1204 Protection of FM broadcast, FM translator and LPFM stations

(a) An application for an FM translator station will not be accepted for filing if the proposed operation would involve overlap of predicted field contours with any other authorized commercial or noncommercial FM broadcast stations, FM translators, and Class D (secondary) noncommercial educational FM stations; or it would result in new or increased overlap with an LPFM station as set forth:

* * * * *

(4) LPFM stations (Protected Contour: 1 mV/m)

Frequency separation	Interference contour of proposed translator station	Protected contour of LPFM station
Co-channel	0.1 mV/m (40 dBu)	1 mV/m (60 dBu)
200 kHz	0.5 mV/m (54 dBu)	1 mV/m (60 dBu)

(5) For the purposes of determining overlap pursuant to this paragraph, LPFM stations, LPFM applications and LPFM permits must be considered with a service contour of 5.6 km for LP100 stations and 7.1 km for LP250 stations on the basis of a nondirectional antenna.

(6) The Commission will entertain requests to waive the prohibited overlap requirements in cases where the overlapping facility is 400 or 600 kHz removed and the population within the overlapped area does not exceed 0.2 percent of the population in the overlapped station's service contour or 3,000 persons overall, whichever is less.

* * * * *

(34) [V-A] Amend §74.1205 to read as follows:

§74.1205 Protection of channel 6 TV broadcast stations

The provisions of this section apply to all applications for construction permits for new or modified facilities for a noncommercial educational FM translator station on Channel 201, unless the application is accompanied by a written agreement between the NCE-FM translator applicant and each affected TV Channel 6 broadcast station licensee or permittee concurring with the proposed NCE-FM translator facility.

(a) An application for a construction permit for new or modified facilities for a noncommercial educational FM translator station operating on Channel 201 must include a showing that demonstrates compliance with paragraph (b), (c) or (d) of this section if it is within 148 kilometers of a TV broadcast station which is authorized to operate on Channel 6.

(b) Collocated stations. An application for a noncommercial educational FM translator station operating on Channel 201 and located at 0.4 kilometer (approximately 0.25 mile) or less from a TV Channel 6 station will be accepted if it includes a certification that the applicant has coordinated its antenna with the affected TV station.

(c) Contour overlap. Except as provided in paragraph (b) of this section, an application for a noncommercial educational FM translator station operating on Channel 201 will not be accepted if the proposed operation would involve overlap of its 54 dBu interference field strength contour with any TV Channel 6 station's 47 dBu Grade B contour.

(1) The distances to the TV Channel 6 station Grade B (47 dBu) field strength contour will be predicted according to the F(50,50) curves in § 73.333, Figure 1 of this chapter.

(2) The distances to the applicable noncommercial educational FM translator interference contour will be predicted according to the procedures specified in § 74.1204(b) of this part.

(d) FM translator stations authorized prior to June 1, 1991 with facilities that do not comply with the predicted interference protection provisions of this section, may continue to operate, provided that operation is in conformance with § 74.1203 regarding actual interference. Applications for major changes in FM translator stations must specify facilities that comply with the provisions of this section.

(35) [IV-I, IV-D] Amend §74.1231 to replace the heading of paragraph (b) and to add new paragraph (m) to read as follows:

§74.1231 Purpose and permissible service.

* * * * *

(b) An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is received directly through space, converted, and suitably amplified, and originating programming to the extent authorized in paragraphs (f), (g), and (h) of this section. However, a fill-in translator may use any terrestrial facilities to receive the signal that is being rebroadcast. An FM booster station or a noncommercial educational FM translator station that is operating on a reserved channel (Channels 201-220) and is owned and operated by the licensee of the primary noncommercial educational station it rebroadcasts may use alternative

signal delivery means, including, but not limited to, satellite and terrestrial microwave facilities. Provided, however, that an applicant for a noncommercial educational translator operating on a reserved channel (Channel 201-220) and owned and operated by the licensee of the primary noncommercial educational AM or FM station it rebroadcasts complies with either paragraph (b)(1) or (b)(2) of this section:

* * * * *

(m) An FM translator station that is operating using in band on channel digital in accordance with Subpart C of this part, that is rebroadcasting a commonly-owned AM station, must rebroadcast that AM station on its analog and HD1 stream, but may use its additional HD streams to originate programming and be identified by the AM station call sign, pursuant to §73.1201 of this chapter.

* * * * *

(36) [IV-I] Amend §74.1232 to add new paragraphs (i) and (j) to read as follows:

§74.1232 Eligibility and licensing requirements.

* * * * *

(i) Authorizations for new FM translator stations originally authorized as noncommercial educational may not subsequently change the primary station to an AM or a commercial FM facility if the new FM translator station has been operated on-air for a period of less than four years.

(j) Authorizations for new or major change fill-in FM translator stations in the reserved band that were originally authorized through the selection process for mutually exclusive applications as provided in §74.1233(e) of this part may not modify their translator coverage contour into any area that is within the 1 mV/m coverage contour of more than two NCE FM services as of the date of the original application filing if the new fill-in FM translator station has been operated on-air for a period of less than four years and seeks to remain a fill-in translator.

(36) [IV-I, V-B, V-E, V-F] Amend §74.1233 to delete and reserve paragraph (a)(1)(i)(A) revise paragraphs (b)(1), (b)(3) and (e), add a new subparagraph (d)(2)(v) and add a new paragraph (f) to read as follows:

§74.1233 Processing FM translator and booster station applications.

(a) * * * * *

(1) * * * * *

(i) * * * * *

(A) [reserved]

(B) Any change in antenna location where the proposed facility is not mutually exclusive to the licensed or originally proposed facility. Any change in channel would be considered as a first-adjacent channel for the purpose of this subparagraph.

* * * * *

(b) * * * * *

(1) Applications for minor modifications for reserved band FM translator stations, as defined in paragraph (a)(2) of this section, may be filed at any time, unless restricted by the FCC, and will be processed on a "first come/first served" basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applicants. Applications requiring a filing fee will be considered tendered for filing at the date and time when the fee is paid. The FCC will periodically release a Public Notice listing those applications accepted for filing. Conflicting applications received after the filing of a first acceptable application will be grouped, according to filing date and time, behind the lead application in a queue. The priority rights of the lead applicant, against all other applicants, are determined by the date and time of filing, but the filing date and time for subsequent, conflicting applicants only reserves a place in the queue. The rights of an applicant in a queue ripen only upon a final determination that the lead applicant is unacceptable and if the queue member is reached and found acceptable. The queue will remain behind the lead applicant until a construction permit is finally granted, at which time the queue dissolves.

* * * * *

(3) Applications for reserved band FM translator stations will be processed using filing window procedures. The FCC will specify by Public Notice, a period for filing reserved band FM translator applications for a new station or for major modifications in the facilities of an authorized station. FM translator applications for new facilities or for major modifications will be accepted only during these specified periods. Applications submitted prior to the window opening date identified in the Public Notice will be returned as premature. Applications submitted after the specified deadline will be dismissed with prejudice as untimely. Except as provided in §73.860(b) of this chapter, no party may file more than 18 applications for new FM translators during the filing window of which, no more than 13 may be located within a top-150 media market as determined by Nielsen Audio in effect as of the first day of the filing window.

* * * * *

(d) Processing of non-reserved band FM translator applications.

(1) * * * * *

(2) * * * * *

* * * * *

(v) Except as provided in §73.860(b) of this chapter, no party may file more than 70 applications for new FM translators during the filing window of which, no more than 50 may be located within a top-150 media market as determined by Nielsen Audio in effect as of the first day of the filing window.

(e) Selection of mutually exclusive reserved band FM translator applications.

(1) Applications for new or major change priority fill-in translator stations proposing to provide fill-in service (within the primary station's protected contour) of a commonly owned primary station will be given priority over all other applications upon a showing that as of the date of filing, the commonly owned primary station was the first or second educational service over the entire proposed translator coverage area.

(2) Where applications for FM translator stations are mutually exclusive and do not involve a proposal to provide priority fill-in service of commonly owned primary stations as described in paragraph (e)(1) of this section, the FCC may stipulate different frequencies as necessary for the applicants.

(3) Where there are no available frequencies to substitute for a mutually exclusive application, the FCC will apply the same point system identified for full-service reserved band FM stations in §73.7003 of this chapter. In the event of a tie, the FCC will consider:

(i) ***Existing authorizations.*** Each applicant's number of existing radio authorizations (licenses and construction permits for AM, FM, LPFM, and FM translators but excluding fill-in translators as defined in §74.1201(m) of this chapter) as of the time of application shall be compared, and the applicant with the fewest authorizations will be chosen as tentative selectee. If each applicant is applying for a priority fill-in translator only, and consideration of its other radio stations is not dispositive, its number of existing fill-in translator authorizations will also be considered, and the priority fill-in applicant with the fewest fill-in authorizations will be chosen as tentative selectee.

(ii) ***Existing applications***. If a tie remains, after the tie breaker in paragraph (e)(3)(i)(D)(1) of this section, the remaining applicant with the fewest pending new, major change and assignment applications in which the applicant is the proposed assignee (AM, FM, LPFM and FM translators excluding fill-in as defined in §74.1201(m) of this chapter) will be chosen as the tentative selectee. If each applicant is applying for a priority fill-in translator only, and consideration of its other radio stations is not dispositive, its number of fill-in translator authorizations will also be considered and the priority fill-in applicant with the fewest fill-in authorizations will be chosen as tentative selectee.

(iii) When the procedures in paragraphs (e)(1), (e)(2), (e)(3)(i) and (e)(3)(ii) of this section fail to resolve the mutual exclusivity, the applications will be processed on a first-come-first-served basis as based on the application's Licensing Management System sequential file number.

(f) Assignment and transfer applications of unbuilt FM translator construction permits are subject to the provisions of §73.3597(c) and §73.3597(d) of this chapter.

(37) [IV-I, IV-B] Amend §74.1235 to revise paragraphs (a), (b) and (i) to read as follows:

§74.1235 Power limitations and antenna systems

(a) An application for an FM translator station filed by the licensee or permittee of the primary station to fill-in service within the primary station's coverage area as defined in §74.1201(m) of this part, will not be accepted for filing if it specifies an effective radiated power (ERP) which exceeds 250 watts.

(b) An application for an FM translator, other than one for fill-in service which is covered in paragraph (a) of this section, will not be accepted for filing if specifies an effective radiated power (ERP) which exceeds the value determined in accordance with this paragraph (b). The antenna height above average terrain (HAAT) shall be determined in accordance with §73.313(d) of this chapter based on 8 radials.

(1) For FM translators located east of the Mississippi River or in Zone I-A as described in §73.205(b) of this chapter, the 60 dBu F(50,50) service contour cannot exceed 7.3 kilometers, rounded to the nearest 100 meters.

(2) For FM translators located in all other areas, the 60 dBu F(50,50) service contour cannot exceed 13.3 kilometers, rounded to the nearest 100 meters.

(3) If the calculated ERP is less than 10 watts, the maximum authorized ERP under this paragraph shall be 10 watts.

* * * * *

(i)

(1) An application that specifies the use of a directional antenna must comply with §73.316, paragraph (c)(1) of this chapter.

(2) Existing licensees and permittees that do not furnish data sufficient to calculate the contours in conformance with §74.1204 will be assigned protected contours with the following radii:

(i) Up to 10 watts – 1 mile (1.6 km) from transmitter site.

(ii) Up to 100 watts – 2 miles (3.2 km) from transmitter site.

(iii) Up to 250 watts – 4 miles (6.5 km) from transmitter site.

* * *

PART 97 – AMATEUR RADIO SERVICE

SUBPART F – Qualifying Examination Systems

(39) [VII-B] Amend §97.505 to add new paragraph (c) as follows:

§97.505 Element credit

* * * * *

(c) The administering VEs must give credit for Element 4 to an examinee holding a Harmonized Amateur Radio Examination Certificate (HAREC), pursuant to CEPT T/R Recommendation 61-02 (1994), issued by a foreign administration and upon evidence of a valid amateur radio license from that administration.

APPENDIX B

DESCRIPTION OF "REMOVE AND RECOMPARE" FOR DETERMINING TENTATIVE SELECTEES

OVERVIEW

In the MX handling process, the FCC currently does not have a policy to give "secondary grants". A secondary grant is one where an applicant is not directly mutually exclusive to the winning applicant(s) but because of other applicants is brought into the MX Group. This is more likely to happen in the NCE process as stations have much larger service contours and in some cases, MX Groups could extend across several states.

By not being able to grant applicants that have been "orphaned" in the process due to not being directly MX with the winning applicant(s), the action of arbitrarily dismissing them out of administrative convenience is not in the public interest as it would reduce the number of potential stations and leave spare spectrum that may not be used for several years when another filing window was to come along, thus being an inefficient use of spectrum.

INTERIM REC PROPOSAL

REC has developed a method called "Remove and Recompare". Under this concept, each applicant in a MX Group would be "ranked" based on their overall standing in the group.

Under the concept of "remove and re-compare" for MX groups of 3 or more applicants, each applicant will be ranked based on their comparative position in the group.

In order for the Bureau to determine if an MX Group is eligible for the remove and re-compare process, both of the following must be present in the MX Group being evaluated:

- The MX Group must have three or more pending applications.
- At least one pair of pending applications are not directly mutually exclusive with each other.

If the MX Group does not meet both criteria, then the Bureau would continue using the pre-existing process.

If the MX Group does meet both criteria, then each applicant will be first evaluated to verify their various comparative claims and adjustments will be made up front. Those adjustments will be in effect for each round.

Then the "bottom" applicant is removed from the group and the entire group is re-compared. Technical points are determined in each round and could result in the application being changed rank for that round only. The process continues in rounds until there are no more applicants to compare.

If the removal of an applicant results in bifurcation of the MX group, the group will be split and each sub-group will be separated considered in subsequent rounds.

For full-service NCE, applicants will be ranked as follows:

- Fair distribution category (in the order of first aural service, tribal priority, first NCE service, second NCE service, no fair distribution). Fair distribution will be further ranked based on level of service (more than 5,000 persons over the next lower applicant).

- Within each Fair Distribution category, Points claimed (after adjustments for lack of showing or incorrect claims).
- Where there is a tie in points, first tie breaker (number of current authorizations).
- Where there is also a tie in authorizations, second tie breaker (number of pending applications).
- Where there is also a tie in pending applications, third tie breaker (previous NCE dismissal in an MX comparison).
- Where there is also a tie in the third tie breaker, local establishment date.

For LPFM, applicants will be ranked as follows:

- Points claimed (after adjustments for lack of showing or incorrect claims, but taking into consideration, aggregated points due to time share agreements).
- Local establishment date.

For NCE-FM translators, applicants will be ranked as follows:

- Applicants specifying a fill-in service.
- Existing authorizations.
- Existing applications.

If there continues to be a tie between two or more applicants, each applicant will receive the same rank and will be considered equally.

During each round, the lowest ranked application is removed. The remaining applicants will be re-compared. For full-service NCE, this includes an examination of population and land area for the purpose of determining technical points.

For full-service NCE, if after an applicant is removed in a round and it causes a situation where only one community of license remains, fair distribution status will be ignored and applicants will be re-ranked based on the point system qualifiers.

If the removal of an applicant from the MX group creates a singleton application, the singleton application will be considered a tentative selectee and then removed from comparisons in subsequent rounds.

Rounds will continue until there are no longer any application pairs that are not directly mutually exclusive with each other.

For the purposes of the evaluation examples, we will use the FCC determinations for point adjustments where they were done. In cases where no point evaluation was made (such as groups where fair distribution was the primary determiner), we will use the REC analysis of the MX group to determine if points should be adjusted.

Secondary grants would be subject to the obligations associated with the comparative criteria that was used to determine their rank order such as maintaining first/second service population, limitations on assignments and the LPFM pledges.

If this concept was used, there may have been as many as 5 additional singleton grants in the 2021 NCE window and one additional grant in the 2013 LPFM window.

Here’s an example of how this process would have worked for 2021 NCE MX Group 49A:

There are seven applications in this group. There is no direct mutual exclusivity between the following application pairs:

- BBN and Historic
- BBN and Maranatha
- BBN and Iglesia
- Delaware (Lewes) and Delaware (Seaford)
- Delaware (Lewes) and Priority
- Delaware (Lewes) and Historic
- Delaware (Lewes) and Iglesia
- Delaware (Seaford) and Maranatha
- Iglesia and Maranatha
- Maranatha and Priority
- Maranatha and Historic

Therefore, we will move forward with a secondary grant evaluation.

Delaware is adjusted to two pending applications. Statewide network is denied to Iglesia and Maranatha. The initial ranking of this group will be as follows:

Rank	Applicant	Priority	Points	Auth.	Pend.	PrevNCE	Local Estab.
6	BBN	None	2	146	7	Yes	
5	Delaware (Lewes)	None	2	1	2	No	
5	Delaware (Seaford)	None	2	1	2	No	
4	Iglesia	None	2	0	1	No	
3	Maranatha	None	5	3	0	No	
2	Priority	Second	2	18	4	No	
1	Historic	First	5	0	1	No	

ROUND 1

One technical point is awarded to Delaware (Seaford). BBN is removed. No singletons are created. We move to Round 2.

ROUND 2

One technical point is awarded to Delaware (Seaford) thus giving preference over Delaware (Lewes) and Iglesia. Delaware (Lewes) is removed. No singletons are created. We move to Round 3.

ROUND 3

One technical point is awarded to Delaware (Seaford) thus giving preference over Iglesia. Iglesia is removed. No singletons are created. We move to Round 4.

ROUND 4

One technical point is awarded to Delaware (Seaford) which does not impact rank order. Delaware (Seaford) is removed. This leaves Maranatha as a singleton, which will be made a

secondary tentative selectee and removed from further comparison. Technical points will no longer be evaluated as only one applicant per priority category exist. No more application pairs that are not directly MX exist, therefore we proceed to a threshold fair distribution analysis between Priority and Historic.

A secondary grant was created in this MX Group. The overall result was two grants (Maranatha and Historic).